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DRUG MONEY LAUNDERING CONTROL EFFORTS

HEARING

BEFORE THE

SUBCOMMITTEE ON
CONSUMER AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

IMPROVING THE ABILITY OF LAW ENFORCEMENT OFFICIALS TO TRACE MONEY LAUNDERING TRANSACTIONS AND TO DESIGN AN EFFECTIVE REGULATORY STRUCTURE THAT WILL ELIMINATE GAPS IN THE PRESENT REGULATIONS

NOVEMBER 1, 1989

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DRUG MONEY LAUNDERING CONTROL EFFORTS

WEDNESDAY, NOVEMBER 1, 1989

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD-538 of the Dirksen Senate Office Building, Senator Alan J. Dixon (chairman of the subcommittee) opened the hearing, Senator Kerry presided thereafter.

Present: Senators Riegle, Dixon, Kerry, D'Amato, Bond, and Graham.

OPENING STATEMENT OF SENATOR DIXON

Senator DIXON. This subcommittee meeting will come to order.

Ladies and gentlemen, this hearing is the first exercise by this Subcommittee of the Regulatory Affairs side of its jurisdiction. All previous hearings have dealt with consumer issues. Our subject today, money laundering, is quite appropriate because the critical question before us is how to design an effective regulatory structure which will yield important benefits for the burdens imposed.

Three members of this subcommittee, Senators Bond, Graham and Kerry, each deserve credit for helping to arrange today's hearing, although I needed no persuasion to agree to investigate drug money laundering. I wish to acknowledge, however, their leadership on this issue.

As I have investigated this issue and reviewed the testimony of today's witnesses, I've become concerned that the gaps in these regulations and their implementation mean that the money launderers are taking America to the cleaners and then charging the bill to the banks. Although the message may be implicit, various witnesses seem to be saying: Certain States are more effective in identifying and prosecuting money launderers than federal authorities. Millions of report forms are tardily reviewed. Reports of suspicious transactions often are not investigated. Foreign bank activities undermine the effectiveness of our laws. Too many transactions escape surveillance, either because businesses don't file required reports or because wire transfers are not required to be reported.

Money laundering is a complicated subject and there are no quick fixes. Still, I want to be sure that we are doing all that we reasonably can in using the smartest, most efficient methods to trap money launderers. To that end, I am announcing today on behalf of the interested members of this subcommittee that we will

hold a follow-up hearing with representatives from the Treasury and Justice Departments, the U.S. Customs Service and the Internal Revenue Service.

Improving this regulatory system will be a challenge, but the payoff will be well worth the effort. After all, catching money launderers means stopping drug dealers.

Now, ladies and gentlemen, I am delighted to yield the chairmanship of this subcommittee for this subject matter today to my distinguished friend, the Senator from Massachusetts, Senator Kerry, who has been an important leader on this subject in the Congress and will carry out that continuing concern as chairman of the subcommittee today.

Senator Kerry.

OPENING STATEMENT OF SENATOR KERRY

Senator Kerry [presiding]. Thank you very much, Mr. Chairman.

Senator Dixon, I appreciate enormously as Chairman of this Subcommittee to permit us to proceed forward with this set of hearings. This is the first such hearing before the Banking Committee, as well as before the Subcommittee on Consumer Regulation, which you chair.

I'd like to thank you for your interest in the subject and for having permitted us to proceed forward here in this Committee. As you know, Mr. Chairman, I have held two hearings before the Senate Foreign Relations Committee, Subcommittee on Narcotics and Terrorism, and we have investigated in that Committee the how and the methodology to a certain degree.

But we've also come to recognize that drug money laundering is becoming perhaps the fastest growing and perhaps one of the most dangerous fronts on the drug war.

Without a place to hide the billions in cash that are part of the drug trade, the cartels would obviously be very hard-pressed to be carrying on the business that they carry on.

There isn't anybody who is a member of this Committee or any other Committee in Congress who hasn't, through the passage of our drug laws and other efforts, attempted to maximize our capacity to put the cartels out of business.

Money laundering, enforcement, that is, the enforcement side of money laundering, is a critical tool in our ability to be able to take the profit out of the drug trade.

It is obviously only one of the tools, but I think we're becoming more and more aware of how important it is in the panoply of those efforts which are available to us to try to have some kind of a serious impact.

We've learned that, as a result of changes in the United States law, our banks and our financial institutions are already governed by a fairly sweeping set of statutes which regard the reporting of cash transactions and their liability for permitting themselves to be used by criminal elements in any country.

We also have become aware, however, that a giant loophole remains in the form of the off-shore banking capacity which accepts anonymous cash deposits and then permits them to move those

funds from shell corporation to shell corporation, or through simple wire transfer back into this country in a laundered state.

We've also learned, regrettably, that that is not limited to countries like Panama or to places like the Cayman Islands, but it also sweeps into its reach nations which have nothing but the best of relations with us, such as Canada and others, where the banking differentials between our system and their system become incentives for criminal activity.

We have learned also in the course of our two prior hearings about how law enforcement is struggling to a certain degree because of the lack of resources, and how that effort is hampered abroad by the lack of sufficient laws and agreements between ourselves and other countries to permit us to be able to hold others accountable to the same standards which our banking institutions are being held to.

So, the purpose of this morning's hearing is really to go the next step in this process of developing a record about money laundering.

And it is to learn something about our domestic efforts. To control money laundering, specifically the state/federal level, and the degree to which there is cooperation and sufficient communication between those, and also to determine to what degree we can improve on the intelligence-gathering and the exchange of information process between them, we will also in the process learn about Operation Greenback in Florida and some of the problems that the State authorities have had in doing that.

We'll also examine the question of international wire transfers. As many of you know, yesterday, the Treasury released a proposed rulemaking on international wire transfers. I guess it was on Monday; we are now at Wednesday.

It seems to me that there is one gaping hole. And while I would applaud Treasury for now moving forward at least in the proposal, it is clear that foreign banks still have an enormous capacity to take advantage of the system.

And even in the wire transfer rules that were issued this week, there seems to be a singling out of our structures, which I think ultimately, unless there is greater international pressure or strategy, is going to disadvantage our banks. It simply means that if our banks are required to adhere to a standard, including offshore, and other banks do not and rush for deposits in those other banks, we will have once again taken a step that will have disadvantaged our economic structure and institutions relative to those against whom we must compete in the marketplace.

That's obviously not the purpose of this exercise. So I would certainly want to examine that issue and see what steps might be available to us in order to be able to deal with that question.

I might note for the record that the Committee did invite the Justice Department to appear to discuss current law enforcement efforts in money laundering, but they were not able to be here. I am encouraged by recent statements of the Attorney General on money laundering, but I still have not heard, as someone who has been following this for several years now, the kind of new initiatives that I think we ought to be hearing.

And I think we still have some distance to go to place money laundering at the level of priority, that the rhetoric of both the

war on drugs as well as some of the media interest that has been generated by it would warrant.

So, Mr. Chairman, again, I thank you for your willingness to let us proceed here. We have an interesting and important group of witnesses.

Before I turn to Senator Bond for his opening statement, let me just say to the witnesses, the rules will by which we will operate will be a strict opening statement of seven minutes in length. And the light I think will give you an indication of the time.

The reason for that is, as you know, we have a number of panels and we do want to be able to proceed to each of them and have time to explore for the questions.

Senator Bond.

OPENING STATMENT OF SENATOR BOND

Senator BOND. Thank you very much, Senator Kerry. First, I want to express my sincere appreciation to Senator Dixon, chairman of the subcommittee, and to Chairman Riegle of the Banking Committee for agreeing to have this hearing on money laundering today.

I wrote to and suggested to Senator Dixon that this hearing was important because I believe that it is absolutely vital for us to get a handle on how well current efforts to combat illegal money laundering are working.

The Banking industry files millions of CTR's with the IRS every year. We need to know how well the government is using these forms to catch drug dealers and other criminals. It's important to note that money laundering is not just associated with the Medellin cartel. All types of organized crime need to conceal the sources of their illegal profits.

Following the money is one of the best ways to catch the drug lords and other criminals. It's much easier to trace the king pins' financial dealings than it is to catch them in the act of selling drugs.

After all, drug lords usually want to stay as far away as possible from the drugs, but they like to get as close as possible to the profits.

It seems to me that active vigilant cooperation from the banking industry in identifying suspicious transactions is one of the keys to effective enforcement in this area. And I'm very much interested in the Treasury's use of its reward authority under current law.

Tellers and bank personnel who go above and beyond the call of duty in looking for and reporting shady dealings should be rewarded. After all, convictions in this area often result in asset forfeiture and a financial gain to the government.

We should make sure that there are carrots as well as sticks to the banking industry.

I believe in economic incentives. I believe that, while we are doing a good job through voluntary efforts, we would have an even greater devotion to duty and perhaps a higher awareness of the possibility of suspicious transfers if we were to implement the system of rewards.

I'm also concerned about observations which have been made previously, and which were in the testimony of State officials that the federal government is less than cooperative in sharing information about money laundering, and how the tips have worked out and what is needed.

As a former Governor, I am always amazed when the federal government fails to use the expertise and the help offered by State governments and fails to provide information on how the federal government's programs are working.

Given the financial constraints that all of us, even those of us in the federal government are operating under, it makes sense to leverage our efforts by coordinating with the States as much as possible.

There are many other areas to explore in addition to the monitoring by banks and the work of State governments. But these are some of the serious questions which we wish to raise today. I know there are many other areas which have been raised in the filed testimony of the witnesses.

I trust that we will have a follow-up hearing so that we can discuss these issues and raise with the appropriate Treasury Department officials and the IRS some of the questions that I believe that you are going to present to us today.

I look forward to hearing the testimony. Thank you for your interest and cooperation.

Senator KERRY. Thank you very much, Senator Bond.

Let me turn now to the distinguished Chairman of the Banking Committee, Senator Riegle.

OPENING STATEMENT OF CHAIRMAN RIEGLE

Senator RIEGLE. Thank you very much, Senator Kerry. Let me first acknowledge your important leadership on this issue. This is a key matter facing the country, and this Committee wants to be able to respond effectively with legislation, if necessary, to deal with it.

This hearing today will lay a very important foundation for further steps that would be appropriate for us to take.

Improving the ability of our law enforcement officials to trace money laundering transactions is an absolutely key part of an effective war on drugs. And the whole drug empire.

We have last year, due to Senator Kerry's leadership, a provision in the Anti-Drug Abuse Act of '88, that requires the Secretary of the Treasury to negotiate agreements to ensure that foreign banks and other financial institutions maintain adequate records of large dollar transactions, and to establish a mechanism for making such records available to U.S. law enforcement officials.

The Secretary of the Treasury is to submit an interim report of the results of his negotiations to this Committee by November 18th. The Committee is very anxious to see that report. This has become even clearer in the past year. Clamping down on the international laundering of elicit profits gained through drug trafficking is an essential component of any effective strategy to control the drug trade.

Today's hearing will focus on some other important aspects of the drug money laundering program. Under the Bank Secrecy Act, banks must report cash transactions in amounts of over $10,000. Because banks and law enforcement officials are now working more closely together to ensure this provision is enforced, it appears that the drug traffickers are laundering increasing amounts of their drug profits through neighborhood check-cashing outlets and other channels.

The Administration has not yet made an effort to control this problem as nearly as I can determine and, today, we'll hear how the States are attempting to deal with it.

One other major area here that needs to be examined is the inter-bank wire transfer system. I think bankers have a very special public responsibility to understand exactly how their facilities may be being used by people in the drug business. I would say that the Administration on the 30th of October for the first time moved to address this problem and we'll be anxious to hear from today's witnesses what they think of the Administration's proposal.

I've asked that the rest of my statement be made a part of the record and, again, I want to commend Senator Kerry for his important leadership on this issue.

Senator KERRY. Without objection, it will be made part of the record, and I thank the Chairman for his comments.

[The complete prepared statement of Senator Riegle follows:]

PREPARED STATEMENT OF SENATOR RIEGLE

I want to thank Senator Kerry for setting up and chairing today's important hearing on drug money laundering. The Treasury Department estimates that world wide gross drug revenues are $300 billion while in the United States alone such revenues are $110 billion. These revenues are in cash as the drug trade is a cash and carry business. In order to make use of their ill-gotten gains drug kingpins and traffickers launder the cash profits of their illegal transactions through the banking system. They know shipping cash around to pay for drugs or to finance their other criminal activities is dangerous and can lead to their capture. Thus they make every effort to transfer their cash into bank accounts and hide it and its transfer in the trillions of dollars of normal banking transactions.

Improving the ability of our law enforcement officials to trace money laundering transactions is an essential aspect of our country's drug control and enforcement effort. It is an issue upon which Senator Kerry has focused considerable attention—attention that is resulting in improvements in our country's whole money laundering control program. For example, last year Senator Kerry crafted a provision of law in the Anti-Drug Abuse Act of 1988 that requires the Secretary of the Treasury to negotiate agreements to ensure that foreign banks and other financial institutions maintain adequate records of large dollar transactions and to establish a mechanism for making such records available to U.S. law enforcement officials. The Secretary is to submit an interim report with the results of his negotiations to this Committee by November 18. The Committee is anxious to see that report as it has become even clearer in the past year that clamping down on the international laundering of the illicit profits gained through drug trafficking is an essential component of any strategy to control the drug trade.

Today's hearing will focus on some other aspects of the drug money laundering problem. Under the Bank Secrecy Act banks must report cash currency transactions in amounts over $10,000. Because banks and law enforcement officials are now working more closely together to ensure this provision is enforced, the drug traffickers are laundering increasing amounts of their drug profits through neighborhood check cashing outlets and other channels. The Administration has not yet made an effort to control this problem and today we'll hear how the States are attempting to deal with it.

Another key aspect of money laundering is the vast amounts of money that move around through inter-bank wire transfer systems. On October 30 the Administration

for the first time moved to address this problem and we'll be anxious to hear from today's witnesses what they think of the Administration's proposal.

The control of money laundering must be a critical element of our efforts to control the drug trade which is weakening our country and destroying families and communities. I am determined that the Banking Committee will do everything possible within its jurisdiction to strengthen our drug control program. I thank Senator Kerry for his contribution to our efforts and look forward to hearing from today's witnesses.

Senator KERRY. Senator D'Amato.

OPENING STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Mr. Chairman, let me join you in commending Senator Kerry for his leadership in this role. It's one that's important. I would just like to look at two areas referred to in my prepared remarks, and I'll ask that the balance of my remarks be included in the record as if read in their entirety.

Senator KERRY. Without objection, so ordered.

Senator D'AMATO. Two examples that stand out as it relates to money laundering are pointed out by our witnesses today.

I was interested in the statement submitted by one of our witnesses on the first panel, the Director of Special Investigations, Mr. Mahoney, who is here with us. He tells us that drug dealers are relying increasingly on the unlicensed illegal money transmitters. Many of these are found in our ethnic neighborhoods.

Hundreds of these storefronts and inner-city operations are used by immigrants legitimately to send money back to their relatives. It's a rather difficult thing to keep track of those who use these facilities to send drug monies overseas.

Mr. Mahoney mentions an estimate of the money involved which is astronomical.

I'm not going to mention that figure because it is so astronomical that I'd like Mr. Mahoney to speak to it. But it's a huge sum that goes over the billion dollar mark on a daily basis. That's something I think that we've got to look into.

And there's no doubt in my mind that many of these facilities are being used to launder money. Unlike banks, he says this entire industry, including the check-cashing and money order vendors, in addition to money transmitters, is regulated only by States.

It seems to me that we should be looking into this area, to see what we can and should be doing.

The second money laundering loophole would appear to be one mentioned by Mr. Lee of the New York Clearing House Association. As a matter of fact, Mr. Chairman, yesterday, the New York Times quotes Mr. Lee as saying that the Clearing House in New York moves $700 million a day; although 83 percent of the Clearing House customers have a regular relationship with their banks, the other 17 percent was a large focus—and it should be a large focus—of interest as it relates to what portion of that 17 percent, is being used for money laundering.

How do we address that?

Should we enact legislation? A bank should know its customer. I'm not talking about moving small or insignificant sums. In this business many of the financial institutions have said, Oh, no, we don't want a "Know your customer" rule. This is not a question of somebody coming with a $200 check and asking for the paycheck to

be cleared. We're talking about people who are transmitting hundreds of millions of dollars.

Do we impede banking unnecessarily by requiring the bank to know the customer?

These hearings are the beginning of action that, hopefully, can lead us to close down those loopholes. I'm sure there are others, but these are two that witnesses that you have called today have touched on, and that seem to be very, very significant.

I look forward to working with you both on this Committee and in the other Committees because this certainly is an area that we can, should, and must do something about to combat the drug cartels.

[The complete prepared statement of Senator D'Amato follows:]

PREPARED STATEMENT BY SENATOR ALFONSE D'AMATO

Mr. Chairman, I commend you for calling this important hearing, and for focusing on the need for better Federal-State Cooperation to combat Drug Money Laundering, and the use of wire transfers and computer technology to launder drug money on an international scale.

In reviewing the testimony of today's witnesses, I can only conclude that our anti-money efforts are plagued by crippling loop holes that drug dealers are exploiting to the fullest. They are laundering hundreds of billions of dollars through our banks, and stopping them will take a major Federal, State, and industry partnership.

Two examples that stand out: (1) I was very interested in the statement submitted by one of the witnesses on our first panel, the Director of Special Investigations for the New York State Department of Banks, Mr. Timothy Mahoney. He tells us drug dealers are relying increasingly on unlicensed, illegal "money transmitters". Hundreds of these storefront inner city operations are used by immigrants to send money back to their relatives. But they are also used by drug dealers to send drug money overseas. He says that he has heard a figure of $1 trillion a day as an estimate of how much money is involved in legal and illegal money transmitting.

Unlike banks, he says, this entire industry—including check cashers and money order vendors, in addition to money transmitters—is regulated only by States. There is no Federal regulation.

(2) The second gaping money laundering loop hole that must be closed is mentioned by another witness, John Lee, of the New York Clearinghouse Association.

In yesterday's New York Times, Mr. Lee is quoted as saying that the New York Clearinghouse moves about $700 million a day, and that although about 83 percent of Clearinghouse customers had a regular relationship with their bank, the other 17 percent was a large focus of money-laundering concerns.

I look forward to asking Mr. Lee to explain that last statement—"A large focus of money laundering concerns". We need to estimate how much money that 17 percent might be moving each day. If it is anywhere near 17 percent of the $700 million a day that the Clearinghouse moves, we are talking about the laundering of billions of dollars of drug money through the Clearinghouse each month.

Two days ago, the Treasury Department announced a range of 7 options it is considering to address the use of electronic transfers to move billions of dollars of drug money through the world's banks. I look forward to hearing from today's witnesses on this issue as well.

On the Treasury, Postal Appropriations Subcommittee, Senators DeConcini, Domenici, Mikulski, and I have been working with the Treasury Department to establish a new "Financial Crimes Enforcement Network". This is an ambitious effort to establish a computerized International Money Laundering Investigations Network—and to increase cooperation with State and local regulators, law enforcement agencies, banks, and foreign governments.

Last week, the Senate passed a number of Mutual Legal Assistance Treaties, which will have a direct impact on international drug money laundering investigations.

And on Thursday of this week the Senate Foreign Relations Committee is scheduled to mark up the "United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances", which requires countries adopting it to make drug money laundering a crime.

I would also like to raise one final issue that the Banking Committee may eventually need to hold separate hearings on. The issue is this: How do we balance two competing interests: (1) law enforcement's need for much more information and cooperation from foreign banks and foreign governments to combat drug money laundering; and (2) the Treasury Department's concerns about over-regulation in this area.

I note, for example, that there is some question whether the Treasury Department's "Advanced Notice of Proposed Rulemaking" announced on Monday would apply to foreign banks using U.S. facilities such as the New York-based CHIPS, the Clearing House Interbank Payments System, which transfers funds among international banks.

Some at the Treasury Department have raised the specter of over-regulation putting the United States at a competitive disadvantage. They have expressed concerns that over-regulation will drive business off-shore, or encourage foreigners to clear their transactions in a currency other than the dollar.

Some say Japanese or European organizations could eventually compete with United States clearinghouse operations. As a matter of fact, the Japanese do have very sophisticated transfer systems, such as BANK OF JAPAN NET. They are actively studying our currency and wire transfer systems and their own—just as they once studied our systems for manufacturing cars, TV's, and other products.

People at the Federal Reserve inform my staff that "electronic payment and wire transfer issues are being very carefully attended to by the Japanese." The Bank of Japan has prepared a report, entitled, "Japanese Transfer Systems in the Era of Financial Deregulation and Globalization." The Japanese have sent an analyst to our Federal Reserve, who is studying our payment and transfer systems in great detail.

Mr. Chairman, I again commend you for calling this hearing, and I look forward to hearing from today's witnesses.

Senator KERRY. Thank you very much, Senator D'Amato. I also want to thank you for your leadership on this. We've done a number of hearings together on these matters, and you've been a long-time advocate of our efforts to try to make real the promises of enforcement and accountability.

I look forward to working with you to make that happen.

We have several panels today and a great deal of area to cover. Our first panel, we welcome a Mr. Gerald Lewis, Comptroller of the State of Florida; and Mr. Timothy D. Mahoney, Director of Special Investigations Division of the New York State Department of Banks. He is accompanied by Mr. Leslie Bender, a Senior Examiner in the License Financial Services Division.

I think, if we could begin perhaps, Mr. Lewis, with you, then we'll proceed to Mr. Mahoney.

STATEMENT OF GERALD LEWIS, COMPTROLLER, STATE OF FLORIDA, TALLAHASSEE, FL

Mr. LEWIS. Thank you, Mr. Chairman, members of the Committee, members of the Subcommittee. First, I would like to commend you on tackling this very important issue. And I would also like to thank you for giving the States some input into this.

In June of 1980, I had the privilege of testifying before the Senate Banking Committee on this very issue. At that time, I had the unpleasant duty of saying to the Committee that the level of coordination between the Federal and State agencies, or at least Florida State agencies, was virtually non-existent.

I'll give you one story. And if it weren't for the seriousness of the matter, it would be humorous, I suppose.

We had been reading about the Treasury Department's Operation Greenback. We had been trying without success to get information from them. Yet, we were reading almost daily in the news-

papers about a report they had. I was subsequently interviewed that same year by a CBS 60 Minutes, Mr. Morley Safer. He asked me about it.

I said, "I've never seen this report." He said, "Would you like a copy?" I said, "Yes, I would." And he handed me a copy and he said, "It's yours if you want to xerox it."

That was the level of cooperation. Again, humorous but for the seriousness of the subject.

I'm very happy to say that nine years later cooperation at the field level between every Federal agency we work with and our State has been excellent. I cannot complain about any degree of cooperation with any of the agencies—Treasury, the Internal Revenue Service, the Drug Enforcement Administration, et cetera.

There are some other problems though I'd like to address in a moment.

As a result of our experience in 1980, I realized that we had to do something in Florida. As a result, when we first created a task force within our own Department to specifically look into currency transaction reports, even though that was not a State responsibility, we realized we had a serious problem in Florida. And we were successful in 1984. We got the Florida Legislature to enact a Currency Transaction Reporting law, which is identical to Federal requirements. So that we were able to get the Currency Transaction Reports both from State-chartered and federally-chartered institutions sent directly to us.

The reason for that was that, as late as 1984, we could not get information from Treasury that would enable us to take action, or enable us to deal with our own law enforcement agencies, such as the Florida Department of Law Enforcement.

By getting it directly, we could transmit it directly to the Department of Law Enforcement and they could act on it.

By the way, compliance with our Currency Transaction Reporting law has been excellent. And by checking with the IRS, we found that we were virtually identical in the reports that we get.

I honestly believe that, as of 1989, Mr. Chairman, and members of the Subcommittee, we have virtually eliminated money laundering from the teller lines. And I think that gets to something that you all have alluded to, that drug traffickers are now looking at more sophisticated ways to launder their money.

As I say, the nature of our relationship with the Federal agencies has become excellent at the field level.

My written statement goes into some detail. Let me just give you a couple of examples of the problems we still face for institutional or bureaucratic reasons, or whatever.

For example, the Florida Legislature at my request just last year amended our Currency law to enable us to receive this information through tape as opposed to written reports, which would speed up the process. Again, just as the IRS can now do. However, we have been waiting in excess of one year for IRS to provide us with the form. We cannot program our computers until we have the form that IRS is going to use.

Again, it would be humorous but for the subject. The series of inter-office memos within our office starting in September of 1988, saying the new CTR form should be available within a few

months—November, we are sure that we are working on the final form. February of 1989: It will be available within four to six weeks. May 30, 1989: We think it will be ready in June, or something of that sort, ready to go in January.

We still do not have it. We cannot program our computers without it. I have no idea what the delay is. But that, it seems to me, is lost time that we can't recover.

Also, I must tell you that we are very troubled in Florida. We clearly are a target State. We are very troubled by the cutback in the number of personnel in Operation Greenback. From a high of 77 IRS, Customs and DEA personnel in 1981, Greenback operatives now number 13. Both Customs and DEA have pulled all their agents out of Greenback this year. The IRS has reduced the number of overtime hours their agents can work on this program.

I found this troubling at best at a time when the President has stated in his National Drug Strategy that:

Money laundering investigations will be expanded and enforcement efforts will be coordinated.

I guess that explains my frustration. One other frustration. We had a very successful symposium in Miami just last week co-sponsored by the University of Miami, the Miami Coalition for a Drug-Free Community, the Florida International Bankers Association, my office, and others.

Attorney General Thornburgh addressed that symposium and lauded Greenback's efforts as leading to important convictions of drug money launderers. If the efforts are so laudable, and I really believe they have been, then I'm at a total loss to understand why resources are being taken away.

One final comment in the interest of time, if I may.

There is no State responsibility to monitor the currency that's deposited in banks absent State law. This is something I did out of frustration, as I indicated, because we were getting no information from the Federal agencies and felt that we had a responsibility.

Then Governor Graham was very supportive of this effort at the time. A Florida law was passed with the support of the Florida Bankers Association and the Florida International Bankers Association. There was opposition. There were those in the Florida Legislature who felt that this infringed on civil rights. It was not an easy bill to get passed.

But it was passed, again with the support of Senator Graham, then Governor.

Secondly, this is a very costly operation. It costs us about $400,000 a year to do this and it is paid entirely by State-chartered banks. Yet, we get information from both federal and State banks.

I say this by way of saying that we have no self-serving reason for doing this. It would be I think a lot easier to say it's not our responsibility. It's a federal responsibility, let it go.

But, Mr. Chairman, members of the Subcommittee, if we don't have cooperation and coordination, then I don't think the effort can succeed.

Thank you again for holding these hearings and permitting me to be with you.

[The complete statement of Gerald Lewis follows:]

GERALD LEWIS
COMPTROLLER OF FLORIDA

OFFICE OF COMPTROLLER
STATE OF FLORIDA

TALLAHASSEE
32399-0350

PREPARED REMARKS CONCERNING

FLORIDA'S EFFORTS TO COMBAT MONEY LAUNDERING

BY FLORIDA COMPTROLLER GERALD LEWIS

Before the

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS OF THE

SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

November 1, 1989

Mr. Chairman, members of the Committee, I am Gerald Lewis, Comptroller of the State of Florida. In that capacity I serve as the Commissioner of state-chartered financial institutions.

I thank you for the opportunity to share my perspective concerning money laundering and the current nature of federal-state coordination in enforcing money laundering statutes.

When I testified in June of 1980 regarding this issue, I reported that much work was needed in the area of federal-state coordination of money laundering efforts. Federal efforts to inhibit the flow of drug money in Florida were not coordinated with our office. Investigations of institutions we regulate were conducted without our knowledge. And, our knowledge of these institutions and our power to remove officers suspected of illegal activities were ignored.

In 1980, I established a special team of examiners to check for currency transaction reporting compliance at Florida's institutions. Our ability to verify that large cash transactions were indeed reported was impeded by our inability to receive currency transaction data from the Treasury Department in a timely fashion. State law enforcement shared our frustration. In the early 1980's it was extremely difficult to gain access to Treasury currency transaction data within a reasonable period of time, if at all.

As a result of these difficulties, during the 1984 Florida Legislative session I asked for and received authority to institute a state currency transaction reporting requirement. It became effective on October 1, 1984. At inception, approximately 600 CTR's were filed per day. Now, we are averaging over 1,800 forms per day. We are not merely piling up paper, however. During fiscal year 1988/89, 346 referrals of suspicious transactions were disseminated to state and federal law enforcement. Florida has been and continues to be at the forefront of state efforts to identify and investigate money laundering activities.

Compliance with our CTR law has been excellent. Over 99% of all CTR's filed with Treasury are also filed with my office. As I noted during my October 17th testimony before your full committee, my office and the Florida banking industry, along with state and federal law enforcement agencies, have worked to virtually eliminate money laundering at the teller line.

State and federal law enforcement agencies find the Florida currency transaction data base an extremely valuable tool. In order to receive currency transaction information, the Treasury has implemented a substantial and time consuming justification process. Rather than having to go through this process, law enforcement can request CTR data from us and, if the level of urgency necessitates, they can immediately receive the requested information. In my formal written statement I have provided you with data regarding the number of requests for currency transaction information and the number of referrals of suspicious activity. As you can see, the numbers are significant and the number of referrals has escalated consistently since inception of our reporting requirement.

The nature of our relationship with the federal authorities charged with enforcing money laundering statutes has changed dramatically since 1980. As an

example, during the Fall of 1980, the Treasury Department denied to us that there was an organization called "Operation Greenback" (now a portion of the Florida Caribbean Organized Crime Task Force, FCOCTF). Just before Thanksgiving of 1980, I was interviewed by Morley Safer of CBS' "60 Minutes." He knew more about Greenback than I did. Now, years later, we work hand in hand with the Treasury Department in a coordinated effort that has proven to be very effective.

Earlier in this decade, as you are well aware, the IRS and my office were overwhelmed with paper. Processing of CTR data was as much as six months to a year behind, rendering the data bases close to useless. In the last two years, both the IRS and my office have corrected the paperwork bottleneck. My staff is now processing CTR data within two weeks of receipt. Also, during the most recent Legislative session, at my urging, the Florida Legislature changed the currency transaction reporting statute to allow for electronic filing of the required information. These statutory changes will further enhance the efficiency and effectiveness of our operation.

While I have indicated that coordination of state and federal efforts at the field level have proven to be very effective, we still find that there are institutional bureaucratic barriers within the Federal government that inhibit our efforts. For example, my office has been waiting in excess of 12 months for technical information associated with the new currency transaction reporting form. This form is currently scheduled to take effect on January 1, 1990. The information we have been waiting for is critical for my office. We cannot begin the computer programming effort necessary for us to accept and be able to process the new form without it. These bureaucratic delays have been exacerbated by the cumbersome decision making process within the Treasury Department.

Also, at the very time that currency transaction information has more utility than ever before, resources at the federal level have been severely curtailed. As an example, Operation Greenback functions as the portion of the FCOCTF primarily responsible for the investigation of drug money laundering activities. From a high of 77 IRS, Customs and DEA personnel in 1981, Greenback's staff now numbers thirteen. Both Customs and the DEA have pulled all of their agents out of Greenback this year. The IRS has also reduced the number of overtime hours Greenback agents are allowed to work.

I find the Greenback cutbacks troubling at a time when the President has stated in his National Drug Strategy that money laundering investigations will be expanded and that enforcement efforts will be coordinated. Greenback's very purpose is to coordinate the South Florida drug money laundering efforts of the IRS, Customs and the DEA. It is possible that the recent Greenback cuts are not known at the highest levels of government. Just last week, during a speech at a symposium in Miami, Attorney General Richard Thornburgh lauded Greenback's recent efforts as leading to important convictions of drug money launders. If Greenback's efforts are so laudable, why are its resources being so severely depleted?

While I am distressed at the lack of federal resources allocated toward enforcing money laundering statutes, I am gratified at the current level of state and federal cooperation at the field level. A recent example of that cooperation is the "International Symposium on Money Laundering" that occurred

in Miami last week. My office cosponsored the Symposium in coordination with The Miami Coalition for a Drug-Free Community, the University of Miami, and the Florida International Bankers Association, among others. I have provided the Committee with a copy of my remarks at the Symposium.

The Symposium provided the opportunity for state and federal agencies, as well as the private sector, to take a comprehensive look at the global problem of drug money laundering. Various proposals were discussed to modify and improve current legislative and administrative procedures aimed at the problem. Also, alternate policies and enforcement programs to enhance public and private sector cooperation to detect and prosecute money launderers were identified. I have included the Symposium's program with my statement. I believe you will be impressed by the breadth of speakers and overall attendance at the Symposium.

In addition to the recent Symposium, the 1988 Florida Legislature established an International Banking and Trade Study Commission, which I chair. The committee is currently going through a rigorous comparison of state and federal money laundering and currency transaction statutes, with the idea of buttressing state law as necessary.

Our state law, for the most part, tracks federal law closely. Our penalties for money laundering and violation of currency transaction reporting requirements are similar. And, we utilize the same CTR form. This was not by accident but by design. We did not want to further burden the financial institutions by requiring a separate state form or impose other state requirements on the institutions. Our electronic filing program will also reduce the institutional burden.

There has been much discussion over the years about the utility of the CTR requirement. To me, the value of the reporting requirement becomes apparent by reflecting on the ease with which our financial institutions were used as conduits for illicit funds when the requirement did not exist. In our view, the effectiveness of the state currency transaction reporting requirement is can also be measured by the swift access federal, state and local law enforcement have to currency transaction report information. Our local and state officials have indicated, time and again, that the federal data base is no substitute for the Florida data base.

The CTR requirement has compelled money launderers to turn to other methods to launder their illegal proceeds, including use of the wire transfer system. We are investigating possible alternatives for detecting money laundering schemes involving wire transfers and other electronic means. Treasury is also investigating various alternatives. Although we have no answers at this point, we realize that the tracking of possible laundering schemes involving wire transfers must be addressed at all levels -- local, state, national, and international. That is why I urge all regulatory and investigatory agencies to work together to detect new money laundering vehicles. I also urge the Committee to ensure that the states are not excluded from federal investigatory and information sharing systems designed to combat this problem.

CTR STATISTICS

AVAILABILITY: Number of Days from Receipt to Availability in Database

7-1-86	51
1-2-87	75
7-1-87	63
1-4-88	93
7-1-88	43
1-3-89	34
7-1-89	12
10-1-89	11

REFERRALS:

	FDLE	DEA	Greenback	IRS
FY 84-85	29	28		
FY 85-86	79	74	18	
FY 86-87	51	44	44	36
FY 87-88	173	172	172	172
FY 88-89	333	346	333	333

INQUIRIES:

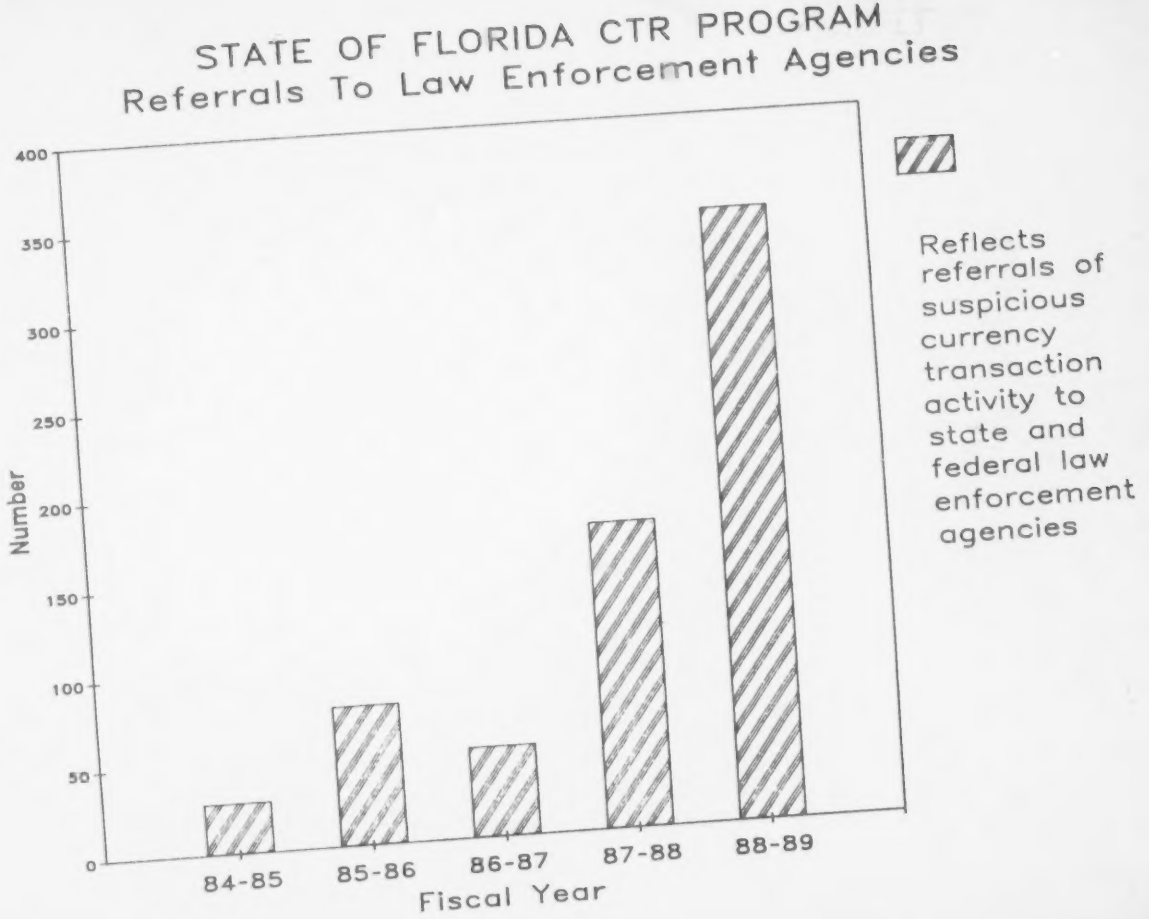
	FDLE	Investigations	DOB
FY 84-85	60	5	10
FY 85-86	176	294	74
FY 86-87	333	164	292
FY 87-88	513	559	369
FY 88-89	550	176	414

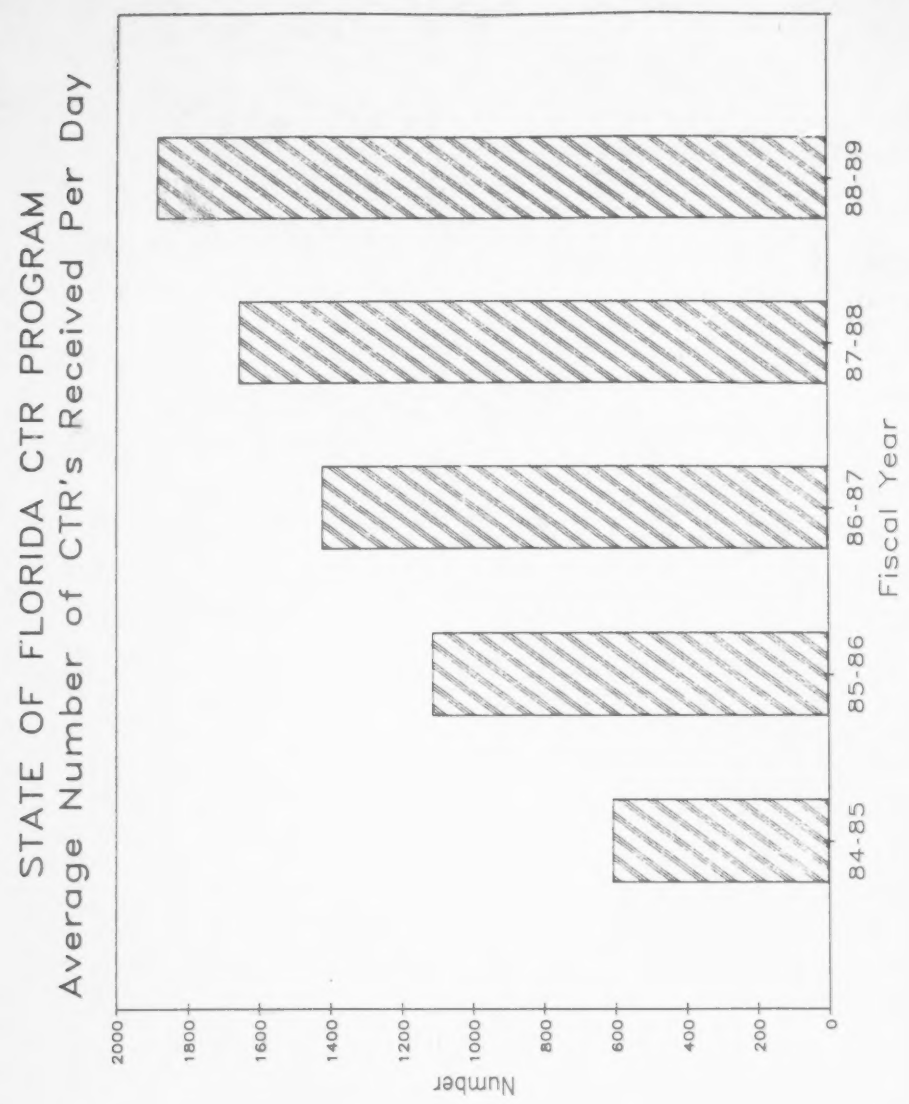
NUMBER OF CURRENCY TRANSACTIONS

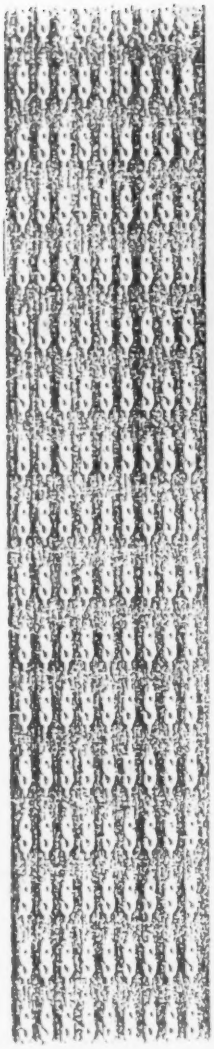
	Annually	Daily
FY 84-85	114826	608
FY 85-86	280769	1114
FY 86-87	358674	1423
FY 87-88	417636	1657
FY 88-89	436203	1888

DOLLAR VOLUME OF CURRENCY TRANSACTIONS RECEIVED

	Annually
FY 84-85	$4,005,948,750
FY 85-86	$9,207,483,500
FY 86-87	$12,634,178,085
FY 87-88	$16,427,042,080
FY 88-89	$16,816,226,255


STATE OF FLORIDA CTR PROGRAM
Referrals To Law Enforcement Agencies
400
350
300
250
200
150
100
50
0
Number
84-85
85-86
86-87
87-88
88-89
Fiscal Year
Reflects referrals of suspicious currency transaction activity to state and federal law enforcement agencies


STATE OF FLORIDA CTR PROGRAM
Average Number of CTR's Received Per Day
Number
2000
1800
1600
1400
1200
1000
800
600
400
200
0
84-85
85-86
86-87
87-88
88-89
Fiscal Year



INTERNATIONAL SYMPOSIUM ON MONEY LAUNDERING

October 26-28, 1989

The Colonnade Hotel
Miracle Mile at Ponce de Leon
Coral Gables, Florida

Approved by the Florida Bar for
16.5 hours of CLER credit.
Qualified by the Florida Board of
Accountancy for 19 hours of
Technical Business Category
credit for CPAs.

Sponsored By:
The Miami Coalition for a Drug Free Community, and
The Graduate School of International Studies (GSIS)

University of Miami

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Cosponsored By
Institute of Interamerican Studies, GSIS, University of Miami; International Business and Banking Institute, School of Business Administration, University of Miami; Centro de Estudios Internacionales (CEI), Universidad de Los Andes (Bogotá); Office of the Comptroller, State of Florida; Florida International Bankers Association (FIBA); Greater Miami Chamber of Commerce Banking Committee

Chairman: Dean Ambler H. Moss, Jr., GSIS, University of Miami; Chairman, International Task Force, The Miami Coalition for a Drug Free Community; Member, Florida Bar

Coordinator: Dr. Bruce Michael Bagley, Associate Professor, Institute of Interamerican Studies, GSIS, University of Miami; Member, International Task Force, The Miami Coalition for a Drug-Free Community

Co-coordinator: Michael Fooner, Consultant, GSIS, University of Miami; Member, International Task Force, The Miami Coalition for a Drug Free Community

Co-coordinator: Dr. Juan Gabriel Tokatlian, Director, Centro de Estudios Internacionales, Universidad de Los Andes

For additional information and reservations, contact Sarah Colon, GSIS, University of Miami, at 305-284-4303

PROGRAM

Thursday, October 26
Afternoon
ARRIVAL AND REGISTRATION

6-7:30 p.m.
RECEPTION

7:30-10 p.m.
DINNER

8:30-10 p.m.
KEYNOTE ADDRESS
Congressman Lawrence J. Smith, Chairman, Task Force on International Narcotics Control of Committee on Foreign Affairs, United States House of Representatives

Friday, October 27
8:30-8:45 a.m.
OPENING CEREMONIES
Dean Ambler H. Moss, Jr., GSIS, University of Miami, and Chairman of the International Task Force, the Miami Coalition for a Drug-Free Community

Dr. Arturo Infante Villareal, Rector, Universidad de Los Andes

8:45-9:30 a.m.
INTRODUCTORY ADDRESSES
Speaker: Gerald Lewis, State Comptroller
"Regulating Money Laundering: The View From Florida"

Speaker: Dexter Lehtinen, Esq., United States Attorney
"United States Attorney's Office and Money Laundering: Problems and Issues"

9:30-11 a.m.
PANEL I: The Economic, Political, and Foreign Policy Implications of Money Laundering in the United States and Abroad

Moderator: Dr. Bruce Michael Bagley, GSIS, University of Miami

Speaker: Dr. R. T. Naylor, Department of Economics, McGill University
"Hot Money: Drugs, Guns, and International Politics"

Speaker: Dr. Peter Reuter, The Rand Corporation
"Illicit Drug Revenue: Sources, Distribution, Future"

Commentators: Dr. Ethan Nadelmann, Woodrow Wilson School of Public and International Affairs, Princeton University;
Dr. Francisco Thoumi, Department of Economics, California State University, Chico

11:30-11:45 a.m.
COFFEE BREAK

11:45 a.m.-1 p.m.
PANEL II: Money Laundering, Banking, and Organized Crime

Moderator: Dr. Robert Grosse, Director, International Business and Banking Institute, School of Business Administration, University of Miami

Speaker: Dr. Scott B. MacDonald, United States Office of the Comptroller of the Currency
"International Banking and Money Laundering"

Speaker: Michael McDonald, Internal Revenue Service, Coordinator, Florida Caribbean Organized Crime Task Force
"Money Laundering and Organized Crime: United States Enforcement Efforts"

Speaker: Bruce Zagaris, Esq., Berliner & Maloney, Washington, D.C.
"The Bank Secrecy Act, Money Laundering, and Law Enforcement"

Speaker: Phillips G. Gay, Jr., Senior Vice President, Regulatory and Compliance Division, First Union Corporation
"Money Laundering and Banking: A Banker's Perspective"

Commentators: Peter Fowler, Vice President, Barclays Bank;
Dr. Peter Reuter, The Rand Corporation

1:15-3 p.m.
LUNCH

1:45-3 p.m.
KEYNOTE ADDRESS
Moderator: Dean Ambler H. Moss, Jr., GSIS, University of Miami

Speaker: The Honorable Dick L. Thornburgh, United States Attorney General

AFTERNOON WORKSHOPS
(three concurrent sessions)

3:15-5:30 p.m.
WORKSHOP I: Bankers and Regulators

Moderator: Dr. Wilbert O. Bascom, Chief, Bureau of International Banking, Division of Banking, Office of Comptroller, State of Florida

Speaker: Charles A. Intriago, Esq., Floyd, Pearson, Richman & Greer; Publisher, Alert Publications
"The 1988 Bank Secrecy Act Amendments and Regulations"

Speaker: Kirk W. Munroe, Esq., Richey, Munroe & Fine
"Banco de Occidente and Beyond"

Speaker: Mark Schnapp, Esq., Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel; formerly Chief of the Criminal Division, Office of the United States Attorney, Miami
"Money Laundering: Detection and Prevention"

Speaker: K. Brooks Thomas, Esq., Regional Counsel, United States Customs Service
"Asset Forfeiture Provisions Enforced by the United States Customs Service"

Commentator: Malcolm J. Gillis, Examiner, Federal Reserve Bank, Miami

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3:15-5:30 p.m.
WORKSHOP II: Drug Abuse, Drug Trafficking, and Money Laundering in the United States: The Case of South Florida

Moderator: Michael Fooner, Miami Coalition for a Drug Free Community

Speaker: Dr. Robert Grosse, Director, IBIL School of Business Administration, University of Miami
"The Economic Impact of Drug Trafficking on South Florida"

Speaker: Larry Gurwin, Special Correspondent, *The Economist*
"Money Laundering: The BCCI Case"

Speaker: James Hall, Director, Up Front Drug Information Center, Miami
"Social Implications of Drug Abuse and Trafficking in South Florida"

Speaker: Victor Onufrieff, Director, Human Resources, Ryder System
"Substance Abuse in the Work Place: Scope, Impact, and Policy Responses in a South Florida Multinational Corporation"

Speaker: Dr. Steven Wisotsky, Nova University Law Center
"Drug Trafficking, Money Laundering, and Drug Enforcement in South Florida"

Commentator: Janet Reno, State Attorney, Dade County

3:15-5:30 p.m.
WORKSHOP III: Media and Drugs in Colombia and the United States

Moderator: Mimi Whitefield, *The Miami Herald*

Speaker: Michael Isikoff, *Washington Post*
"The Impact of Drug Consumption, Drug Trafficking, and Drug Enforcement in the United States: An Overview of the United States War on Drugs"

Speaker: Andrés Oppenheimer, *The Miami Herald*
"Drugs, Money, and Panama"

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Speaker: Guy Gugliotta, *The Miami Herald*
"The Rise and Consolidation of the Cartels in Colombia and Florida"

Speaker: José de Córdoba, *Wall Street Journal*
"Covering the Drug War in Colombia"

Speaker: María Jimena Duzán, *El Espectador*
"Drug Trafficking and the Barco Administration: A Balance Sheet"

Commentators: Jeffrey Leen, *The Miami Herald*
Robert Folsom, *Sun Sentinel*

6-7 p.m.
RECEPTION

7-9:15 p.m.
DINNER
Hosted by Alvah H. Chapman, Jr., Director and Chairman of the Executive Committee, Knight-Ridder, Inc., and Vice Chairman of the Miami Coalition for a Drug-Free Community

8-9:15 p.m.
KEYNOTE SPEAKER
Congressman Dante B. Fascell, Chairman, Committee on Foreign Affairs, United States House of Representatives

Saturday, October 28
8-8:30 a.m.
COFFEE AND REGISTRATION

8:30-9:30 a.m.
PRINCIPAL ADDRESS

Speaker: Dr. Ingo Walter, School of Business Administration, New York University
"Secret Money: The Economics of International Money Laundering"

9:30-10:45 a.m.
PANEL III: The Latin Connection: Drug Trafficking, Organized Crime, and Money Laundering in Latin America and the Caribbean

Moderator: Dr. Enrique Baloyra, Associate Dean, GSIS, University of Miami

Speaker: Rayburn F. Hesse, International Narcotics Matters, United States Department of State
"Overview of the United States War on Drugs in Latin America"

Speaker: Thomas V. Cash, Special Agent in Charge, United States Drug Enforcement Administration
"The Role of the DEA in Latin America"

Speaker: Dr. Rafael Pardo Rueda, Consejero Presidencial para la Paz
"Colombia's War on Drugs and Violence"

Speaker: Dr. Ethan Nadelmann, Princeton University
"Unwashing Dirty Money: Enforcement Problems in the United States and Latin America"

Speaker: Dr. Rensselaer Lee, III, Global Advisory Service, Washington, D.C.
"The Political Economy of the United States Andean Cocaine Trade: Scope, Impact, and Policy Options"

Speaker: Dr. Bruce Michael Bagley, GSIS, University of Miami
"United States Foreign Policy and the War on Drugs in Latin America and the Caribbean"

Commentators: Dr. Steven Wisotsky, Nova University Law Center, **Dr. Luis Javier Orjuela,** Universidad de Los Andes

10:15-11 a.m.
COFFEE BREAK

11 a.m.-12:50 p.m.
PANEL IV: Money Laundering and International Cooperation

Moderator: Dr. Juan Gabriel Tokatlián, Universidad de Los Andes

Speaker: Michael Fooner, Miami Coalition for a Drug Free Community
"A Brief History of International Law Enforcement Cooperation on Money Laundering"

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Speaker: Richard C. Stiener, Chief, National Central Bureau of INTERPOL, United States Department of Justice, and member of Executive Committee of INTERPOL
"United States Law Enforcement and International Cooperation on Money Laundering"

Speaker: Major Douglas W. Hughes, Governor's Drug Policy Advisor, Office of Narcotics Control, State of Florida
"Florida's Anti-Drug Programs"

Speaker: Dr. Raphael Perl, Congressional Research Service, Library of Congress
"Congress, International Narcotics Control, and Money Laundering: Recent Developments and Initiatives"

Commentators: Dr. William Walker, Ohio Wesleyan University; **Dr. Juan Gonzalo Escobar,** Law School, Universidad de Los Andes

1-3 p.m.
LUNCHEON ADDRESS
Speaker: Gerald J. Houlihan, Esq., Steel, Hector & Davis, formerly of the United States Attorney's Office on Operation Greenback
"Vulnerable Financial Institutions: Victims of the War on Drugs"

AFTERNOON WORKSHOPS
(three concurrent sessions)

3:15-5:30 p.m.
WORKSHOP I: Secrecy and Privacy in Bank Regulation

Moderator: Peter Fowler, Vice President, Barclays Bank

Speaker: Ralph E. Sharpe, Director, Enforcement and Compliance Division, Office of United States Comptroller of the Currency
"Supervisory Approach of the Office of the Comptroller of the Currency of the United States: Enforcement and Supervisory Strategies in Response to Bank Fraud"

Speaker: Jonathan Rusch, Head of Frauds Section, United States Department of Justice
"Bank Fraud and the Department of Justice"

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Speaker: Robert Marcuse, Executive Vice President, Banque Sudameris
"Banks' Control Over Money Laundering: Back to Basics"

Speaker: Dr. Wilbert O. Bascom, Office of the Comptroller, State of Florida
"Banks and Money Laundering in Florida"

Commentators: Dr. William Welch, Associate Director, International Banking Center, Florida International University;
Michael Zelman, Esq.

3:15-5:30 p.m.
WORKSHOP II: The Cocaine Trade: Drug Trafficking, Organized Crime, and Money Laundering in the Andes

Moderator: Dr. Bruce Michael Bagley, GSIS, University of Miami

Speaker: Dr. Elena Alvarez, State University of New York
"The Economics of Coca Cultivation in Bolivia and Peru"

Speaker: Dr. Eduardo Gamarra, Florida International University
"Drugs, Politics, and Foreign Policy in Bolivia"

Speaker: Dr. Eduardo Sarmiento, Dean, Economic Faculty, Universidad de Los Andes
"The Economics of the Drug Trade in Colombia"

Speaker: Dr. Francisco Leal Buitrago, National University
"Drug Trafficking and the Colombian Armed Forces"

Speaker: Adrián Bonilla, GSIS, University of Miami
"Ecuador and the War on Drugs"

Speaker: Alexei Páez, Facultad Latinoamericana de Ciencias Sociales (FLACSO), Ecuador
"An Overview of Drug Trafficking and Money Laundering in Ecuador"

Commentators: Dr. Alejandro Reyes, National University;
Dr. David Scott Palmer, Boston University;
Paul Bonilla, Fundacion Ergos, Ecuador

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3:15-5:30 p.m.
WORKSHOP III: Drug Trafficking, Organized Crime, and Money Laundering in Mexico, Central America, and the Caribbean

Moderator: Michael Fooner, Miami Coalition for a Drug-Free Community

Speaker: Dr. William Walker, Ohio Wesleyan University
"After Camarena: United States Mexican Drug Relations"

Speaker: Dr. Mark Rosenberg, Florida International University
"Drug Trafficking in Central America: The Case of Honduras"

Speaker: Dean Ambler H. Moss, Jr., GSIS, University of Miami
"Drug Trafficking, Money Laundering, and United States Panamanian Relations"

Speaker: Dr. Anthony Maingot, Florida International University
"Drug Trafficking, Off Shore Banking, and Money Laundering in the Caribbean"

Speaker: Dr. Donald Mabry, Mississippi State University
"The Role of the United States Military in the War on Drugs in the Caribbean Basin"

Commentators: Andrés Oppenheimer, *The Miami Herald;*
Dr. Morris Blachman, University of South Carolina

SPEECH TO SYMPOSIUM ON MONEY LAUNDERING

THANK YOU FOR THE KIND INTRODUCTION, DOCTOR MOSS.
I'M VERY MUCH IMPRESSED BY THE WORK YOU, PRESIDENT FOOTE AND
THE MIAMI COALITION FOR A DRUG-FREE COMMUNITY
HAVE PUT INTO THIS SYMPOSIUM.
IT SPEAKS WELL OF THE COMMITMENT BY THE ORGANIZATIONS INVOLVED
IN THIS FORUM TO STAND UP AND BE COUNTED IN THIS GRIM STRUGGLE
AGAINST DRUG TRAFFICKING.
LADIES AND GENTLEMEN, I'M HONORED TO BE WITH YOU TODAY,
EVEN THOUGH MONEY LAUNDERING
IS NOT A PLEASANT SUBJECT FOR DISCUSSION.
I'M GOING TO TALK ABOUT THE DIRTY BUSINESS OF MONEY LAUNDERING-
HOW IT IS SPREADING,
A BOLD INITIATIVE BY AN INTERNATIONAL BANKING GROUP,
WHAT FLORIDA BANKERS AND REGULATORS ARE DOING,
RECENT LEGISLATIVE ACTION,
AND SOME PROSPECTS FOR THE FUTURE.
MONEY LAUNDERING IS LIKE A DIRTY NEEDLE -
IT INJECTS AND IT INFECTS.
IT INJECTS MONEY INTO THE SUPPLY SIDE OF DRUG MARKETS,
PROVIDING DRUG TRAFFICKERS WITH ENORMOUS PROFITS -
AND CAPITAL TO REINVEST IN THEIR ILLICIT TRADE.
BUT IT ALSO INJECTS LARGE DOSES OF MONEY INTO LEGITIMATE MARKETS AND
INFECTS THEM WITH THE DISEASE CALLED GREED.
UNTIL WE PREVENT DRUG PEDDLERS FROM CLEANING THEIR DIRTY MONEY,
AND DIRTYING OUR CLEAN MONEY,
WE WILL REMAIN EXPOSED TO THE HUMAN SUFFERING THE DRUG TRADE CAUSES.
AS THE MISERY REACHES INTO EVERY CORNER OF THE WORLD,
IT WILL TOUCH EACH OF US--
OUR FAMILIES, FRIENDS AND NEIGHBORS,
OUR COLLEAGUES, BUSINESSES, AND NATIONS.
NEWSPAPERS REPORT THE ATROCITIES EVERY DAY -
MURDER, RAPE, ASSAULT, ROBBERY, AND ON AND ON.
"CRACK" COCAINE HAS PERMANENTLY BRAIN DAMAGED
HUNDREDS OF THOUSANDS OF OUR CHILDREN.
TELEVISION COVERAGE OF SHOOTOUTS INVOLVING DRUG GANGS MAKES
NEIGHBORHOODS LOOK LIKE COMBAT ZONES--
WITH CASUALTY REPORTS AND BODY COUNTS.
THESE WARLIKE HORRORS ARE INTENSIFYING IN OUR CITIES
AND MOVING INTO OUR SMALL TOWNS AND RURAL COMMUNITIES.
IN THE UNITED STATES, WE PAY BETWEEN 60 AND 100 BILLION DOLLARS A YEAR
FOR LOST PRODUCTIVITY, ABSENTEEISM, AND HEALTH CARE DUE TO DRUG ABUSE.
SIXTY TO ONE HUNDRED BILLION DOLLARS!
WITH THAT MUCH MONEY, THE UNITED STATES COULD BALANCE ITS TRADE DEFICIT,
AND HAVE ENOUGH LEFT OVER TO BAIL OUT THE THRIFT INDUSTRY.
I COULD CONTINUE DETAILING THE TERRIBLE EFFECTS OF DRUG TRAFFICKING:
INSTEAD I WANT TO EMPHASIZE THREE VITAL POINTS:
FIRST, NONE OF US IS IMMUNE TO THE SUFFERING--
DRUG TRAFFICKERS ARE SPREADING IT EVERYWHERE.
SECOND, PEOPLE WHO HELP DRUG TRAFFICKERS LAUNDER MONEY
ARE AS RESPONSIBLE FOR THE GROWING MISERY
AS THE CRIMINALS WHO DIRECT AND CARRY OUT THE TRAFFICKING.
THIRD, WHEN WE STOP MONEY-LAUNDERING,

ALL DRUG-RELATED PROBLEMS WILL NOT VANISH IMMEDIATELY:
BUT IF WE DO NOT STOP MONEY-LAUNDERING,
THEY WILL NEVER GO AWAY.
I ASK YOU TO KEEP THESE THOUGHTS FOREMOST
DURING THIS SYMPOSIUM'S VARIOUS PANEL DISCUSSIONS
SO WE DON'T "LOSE SIGHT OF THE FOREST FOR THE TREES."
AS DRUG PEDDLERS EXPAND THEIR MARKETS,
THEY ALSO DIVERSIFY THEIR MONEY-LAUNDERING ACTIVITIES.
JUST AS SMALL TOWNS ARE FINDING
MORE ILLEGAL DRUG ACTIVITY IN THEIR MIDST,
LAW ENFORCEMENT AGENCIES ARE DISCOVERING MONEY-LAUNDERING
IN ENTERPRISES WE DON'T USUALLY ASSOCIATE WITH SUCH ACTIVITY...
FOR EXAMPLE:
BEAUTY SALONS, CAMERA SHOPS,
CAR RENTALS, DRY CLEANERS,
FITNESS CLUBS, MOVIE HOUSES,
PET SHOPS,
AND EVEN GROCERY STORES.
THESE EXAMPLES ILLUSTRATE
HOW FAR-REACHING THE INFECTION OF DRUG MONEY HAS SPREAD.
THE GREEDY "ASK NO QUESTIONS" ATTITUDE IS CONTAGIOUS.
IN FLORIDA, THE LAW PROVIDES STIFF PENALTIES
FOR MONEY LAUNDERING, NO MATTER WHO COMMITS IT.
AND ENFORCEMENT ACTIONS ARE ON THE RISE.
MONEY LAUNDERERS HAVE INJECTED
LOTS OF CASH INTO REAL ESTATE MARKETS.
SO MUCH SO, THAT IT DESERVES SPECIAL ATTENTION.
EXTENSIVE COVERAGE IN FLORIDA NEWSPAPERS HAS PROVIDED
DETAILS OF SPECIFIC CASES OF REAL ESTATE MONEY-LAUNDERING ACTIVITY.
IT REVEALS THAT, BASICALLY, THIS IS WHAT HAPPENS...
DRUG TRAFFICKERS MAKE LARGE CASH DOWN PAYMENTS AND PURCHASES OF REAL ESTATE.
THESE TRANSACTIONS AFFECT MARKETS IN TWO WAYS:
FIRST, APPRAISED PROPERTY VALUES GO UP SHARPLY, CAUSING TAX INCREASES.
BIG PROPERTY-TAX INCREASES HIT RETIRED PERSONS ON FIXED INCOMES
ESPECIALLY HARD.
UNABLE TO PAY THESE HIGHER TAXES, THEY LOSE THEIR HOMES OF MANY YEARS,
BECAUSE THEY HAPPEN TO LIVE IN TAX DISTRICTS
WHERE DRUG TRAFFICKERS OWN PROPERTY.
SECOND, WHEN DRUG DEALERS PAY WITH LARGE AMOUNTS OF CASH,
THEY GROSSLY INFLATE MARKET VALUES, TOO.
LAW-ABIDING CONSUMERS, SHOPPING FOR THEIR "DREAM HOME,"
FIND THAT THEY CAN'T AFFORD TO PAY THE HIGH PRICES
SET BY SALES TO DRUG PEDDLERS.
SO WE SEE, AGAIN, THAT GREED IS INFECTIOUS.
SEEMINGLY LAW-ABIDING BUSINESS PEOPLE
ACCEPT BIG BUNDLES OF CASH, AND SAY -
IT'S NOT THEIR BUSINESS WHERE THE MONEY COMES FROM:
AND LAW-ABIDING CONSUMERS SUFFER THE CONSEQUENCES.
IS ANYONE SURPRISED TO HEAR THAT
SOME BANKERS HAVE BEEN KNOWN TO LAUNDER MONEY?
THE BAD NEWS IS -
A FEW, HIGH-PROFILE MONEY-LAUNDERING SCANDALS
HAVE SMEARED THE BANKING INDUSTRY'S IMAGE, PERHAPS UNFAIRLY.
BUT, AS I JUST POINTED OUT -

MONEY LAUNDERING IS NOT ONLY A BANKING PROBLEM.
OTHER INDUSTRIES MUST ACCEPT THEIR SHARE OF RESPONSIBILITY,
BECAUSE THE CHALLENGE CONFRONTS EVERY SEGMENT OF SOCIETY.
IT IS IMPERATIVE THAT WE STOP IT WHEREVER IT OCCURS.
THE GOOD NEWS IS -
THE BANKING INDUSTRY IS DOING SOMETHING ABOUT MONEY LAUNDERING.
LAST YEAR,
THE BASLE COMMITTEE ON BANKING REGULATIONS AND SUPERVISORY
PRACTICES...
ISSUED A "STATEMENT OF PRINCIPLES"
REAFFIRMING THE NEED FOR DECISIVE MEASURES BY BANKERS
AGAINST MONEY-LAUNDERING CRIMINALS.
THE BASLE COMMITTEE IS MADE UP OF REPRESENTATIVES
FROM THE CENTRAL BANKS AND SUPERVISORY AUTHORITIES OF 12 COUNTRIES
BELGIUM, CANADA, FRANCE, GERMANY, ITALY, JAPAN, THE NETHERLANDS, SWEDEN,
SWITZERLAND, THE UNITED KINGDOM, THE UNITED STATES, AND LUXEMBOURG.
THE COMMITTEE EXPRESSED ITS BELIEF IN THE STATEMENT OF PRINCIPLES
IN THESE WORDS -
"WHATEVER THE LEGAL POSITION IN DIFFERENT COUNTRIES,
THE COMMITTEE CONSIDERS THAT THE FIRST AND MOST IMPORTANT SAFEGUARD
AGAINST MONEY-LAUNDERING
IS THE INTEGRITY OF BANKS' OWN MANAGEMENTS
AND THEIR VIGILANT DETERMINATION TO PREVENT THEIR INSTITUTIONS FROM
BECOMING ASSOCIATED WITH CRIMINALS
OR BEING USED AS A CHANNEL FOR MONEY LAUNDERING."
HAS ANY OTHER INDUSTRY DECLARED SUCH A STANDARD FOR ITSELF?
THE COMMITTEE
URGES BANKS AROUND THE WORLD
TO ADHERE TO ITS STATEMENT OF PRINCIPLES BY...

1. FORMALLY ADOPTING POLICIES CONSISTENT WITH THEM,
2. INFORMING ALL THEIR STAFF, WHEREVER LOCATED, ABOUT THE POLICIES,
3. TRAINING THEIR STAFF IN MATTERS COVERED IN THE STATEMENT OF PRINCIPLES,
4. IMPLEMENTING SPECIAL MEASURES FOR IDENTIFYING CUSTOMERS AND KEEPING INTERNAL RECORDS OF TRANSACTIONS, AND ...
5. EXTENDING ARRANGEMENTS FOR INTERNAL AUDITING, AS AN EFFECTIVE TEST OF ADHERENCE TO THE STATEMENT OF PRINCIPLES.

I'M ANNOUNCING TODAY, THAT AS FLORIDA'S BANKING REGULATOR,
I ENDORSE THE "STATEMENT OF PRINCIPLES"
OF THE BASLE COMMITTEE ON BANKING REGULATIONS AND SUPERVISORY PRACTICES.
MY ENTIRE STAFF AT THE FLORIDA DEPARTMENT OF BANKING AND FINANCE
JOIN ME IN PLEDGING OUR SUPPORT TO THE GROUP OF 12 COUNTRIES
IN THEIR CALL FOR FINANCIAL INSTITUTIONS THE WORLD OVER
TO AGREE TO ABIDE BY THESE PRINCIPLES,
WITH THE EXPRESSED INTENT OF PREVENTING BANKING SYSTEMS
FROM BEING USED FOR CRIMINAL MONEY-LAUNDERING PURPOSES.
OUR ULTIMATE GOAL IS TO STOP THE GROWING INFECTION OF DRUG TRAFFICKING,
AND REMOVE THAT MALIGNANCY FROM SOCIETY AT LARGE,
BEFORE IT BECOMES A TERMINAL CANCER.
AND JUST LAST SUMMER
PRESIDENT BUSH AND HIS COUNTERPARTS AT THE PARIS ECONOMIC SUMMIT
REACHED AN AGREEMENT TO STUDY THE PROBLEM FURTHER
THROUGH THE APPOINTMENT OF A NEW INTERNATIONAL TASK FORCE.
NOW I WANT TO MAKE A FEW REMARKS ABOUT

MONEY LAUNDERING AND FLORIDA'S BANKING INDUSTRY.
I WILL NOT REPEAT ALL THE DRAB STATISTICS ABOUT
SURPLUS CASH IN THE FEDERAL RESERVE BRANCHES AT JACKSONVILLE AND MIAMI.
NOR WILL I RECITE THE ALL-TOO-FAMILIAR LITANY OF CASES
WE HAVE SEEN HIGHLIGHTED BY THE NEWS MEDIA.
WE KNOW MONEY LAUNDERING IS A LIABILITY IN FLORIDA -
OR WE WOULDN'T BE HERE TODAY.
BUT LET ME FOCUS ON THE ASSET SIDE OF THIS LEDGER FOR A MOMENT.
THE FLORIDA INTERNATIONAL BANKERS ASSOCIATION (FIBA) AND ITS MEMBER BANKS
HAVE DEMONSTRATED THEIR AWARENESS OF THE THREAT
POSED BY DRUG MONEY INVADING THE BANKING SYSTEM.
FOR EXAMPLE, FLORIDA'S INTERNATIONAL BANKERS RECENTLY
CONVENED A CRISIS-MANAGEMENT TASK FORCE TO
HELP PREVENT INCIDENTS LIKE THE RECENT B.C.C.I. CASE.
THE FLORIDA INTERNATIONAL BANKERS ASSOCIATION (FIBA)
SUPPORTS THE GROUP OF TEN STATEMENT OF PRINCIPLES.
FIBA IS AN ACTIVE CO-SPONSOR OF THIS SYMPOSIUM.
ITS ROLE IN THE FRONT RANKS OF THESE CAMPAIGNS
DEMONSTRATES A GENUINE COMMITMENT
ON THE PART OF FLORIDA'S INTERNATIONAL BANKERS.
FLORIDA'S INTERNATIONAL BANKERS
ARE RESPONSIBLE CORPORATE CITIZENS -
THEIR COMPLIANCE RECORD WITH OUR
CURRENCY TRANSACTION REPORTING REQUIREMENTS, FOR EXAMPLE,
IS OUTSTANDING.
I ALSO WANT TO COMMEND THE FLORIDA BANKERS ASSOCIATION (FBA)
AND ITS MEMBER BANKS.
FBA ACTIVELY SUPPORTED OUR CURRENCY TRANSACTION REPORTING BILL
-AND WHEN IT BECAME LAW,
FBA URGED ITS MEMBER BANKS TO COMPLY PROMPTLY.
THE VAST MAJORITY OF THEM DID; AND STILL DO.
THE FLORIDA BANKERS ASSOCIATION ENCOURAGES
TRAINING PROGRAMS FOR BANK EMPLOYEES.
FLORIDA BANKERS CONTRIBUTE PERSONNEL, TIME, AND ENERGY
TO EDUCATE THEIR EMPLOYEES ABOUT HOW TO DETECT
ATTEMPTS TO LAUNDER MONEY.
IN ADDITION TO CONDUCTING IN-HOUSE TRAINING COURSES
ON MONEY-LAUNDERING PREVENTION,
FBA-MEMBER BANKS OFFER TRAINED STAFF TO SHARE THIS KNOWLEDGE
WITH OTHER FINANCIAL INSTITUTIONS.
FLORIDA BANKERS ORIGINATE AND WORK ON
CAMPAIGNS AGAINST ILLEGAL DRUG ACTIVITIES
AT THE INTERNATIONAL, NATIONAL, STATE AND LOCAL LEVELS.
I CITE AS EXAMPLES,
THEIR PARTICIPATION IN CONFERENCES LIKE THIS ONE,
AND THE FORMATION OF "BADD"--B.A.D.D.--
BANKERS AGAINST DRUG DEALERS.
MR. EARL HADLOW, PRESIDENT OF FBA,
CHAIRS THE AMERICAN BANKERS ASSOCIATION'S
NEWLY-FORMED TASK FORCE ON MONEY LAUNDERING.
MISTER HADLOW SEES THAT TASK FORCE AS AN OPPORTUNITY TO PROMOTE
MORE CONSTRUCTIVE COOPERATION BETWEEN THE BANKING INDUSTRY AND
GOVERNMENT, IN JOINTLY ATTACKING MONEY LAUNDERING
IN OUR NATION'S FINANCIAL INSTITUTIONS.

I APPLAUD HIS LEADERSHIP,
AND OFFER SUPPORT FROM OUR OFFICE
TO MR. HADLOW'S TASK FORCE.
I HAVE MENTIONED ONLY A FEW INSTANCES OF HOW
FLORIDA'S DOMESTIC AND INTERNATIONAL BANKERS
ARE LEADING AND JOINING BATTLES AGAINST DRUG TRAFFICKERS,
AND I RECOMMEND THAT OTHER INDUSTRIES
FOLLOW THE EXAMPLE SET BY THE BANKING INDUSTRY,
AND INITIATE EQUALLY VIGOROUS DETECTION AND PREVENTION MEASURES
AGAINST MONEY LAUNDERERS.
IN OTHER WORDS, ALL OF US MUST SHARE THE BURDEN
OF FINDING EFFECTIVE SOLUTIONS
TO THE PROBLEM OF MONEY LAUNDERING,
IF WE EXPECT TO WIN THE WAR AGAINST DRUGS.
AT THE DEPARTMENT OF BANKING AND FINANCE,
WE'VE BEEN BUSY LOOKING FOR WORKABLE REGULATORY SOLUTIONS
TO MONEY-LAUNDERING PROBLEMS AT FINANCIAL INSTITUTIONS.
NEARLY TEN YEARS AGO, I APPOINTED A DEPARTMENTAL TASK FORCE
TO EXPAND OUR ABILITY TO DETECT MONEY-LAUNDERING OPERATIONS.
THAT TASK FORCE MADE RECOMMENDATIONS IN 1980 THAT...
-LED TO THE CREATION OF FOUR NEW POSITIONS IN OUR OFFICE
FOR TRACING CASH TRANSACTIONS.
-ESTABLISHED A SPECIAL SECTION IN OUR OFFICE TO REVIEW INFORMATION
FROM BANK EXAMINATIONS TO DECIDE IF ADDITIONAL ACTION IS NEEDED,
AND WHEN REFERRALS TO LAW ENFORCEMENT AGENCIES ARE APPROPRIATE.
-PROVIDED THE IMPETUS FOR A COMPUTER PROGRAM
THAT TRACES REPORTS OF TRANSACTIONS JUST UNDER 10,000 DOLLARS,
AS WELL AS THOSE IN EXCESS OF THAT AMOUNT.
-CONVINCED ME TO RECOMMEND TO THE UNITED STATES SENATE BANKING COMMITTEE
STRICTER FEDERAL RULES GOVERNING CURRENCY TRANSACTION REPORTS.
AND THOSE RULES WERE, IN FACT, TIGHTENED.
-MOST IMPORTANT, THE TASK FORCE LAID THE GROUNDWORK
FOR OUR CONTINUING EFFORTS
TO PREVENT MONEY LAUNDERING.
INCLUDING THE PASSAGE OF LANDMARK LEGISLATION
IN 1984 BY THE FLORIDA LEGISLATURE.
IN THAT YEAR FLORIDA BECAME ONE OF THE FIRST STATES
WITH A MAJOR DRUG-RELATED MONEY-LAUNDERING PROBLEM
TO ENACT A LAW REQUIRING ALL FINANCIAL INSTITUTIONS
-- WHETHER STATE OR FEDERALLY CHARTERED --
TO FILE A COPY OF EACH CURRENCY TRANSACTION REPORT
WITH THE STATE BANKING REGULATOR.
SINCE THE CTR LEGISLATION WENT INTO EFFECT,
ON OCTOBER FIRST, 1984,
OUR WORKLOAD HAS NEARLY TRIPLED.
WE PUT 436,000 CASH TRANSACTION REPORTS
INTO OUR DATA BASE IN FISCAL YEAR 1988-89,
-COMPARED WITH 115,000 ENTRIES IN FISCAL YEAR 1984-85.
THAT'S AN INCREASE OF MORE THAN 1,200 PER WORKDAY!
FROM THIS BROAD INFORMATION SOURCE
WE GENERATE DETAILED REPORTS ON CASH TRANSACTION ACTIVITY
OF SPECIFIC...
--INDIVIDUALS AND BUSINESSES,
--FINANCIAL INSTITUTIONS,

--GEOGRAPHIC AREAS,
AND EVEN DISTINCT...
--TIME PERIODS.
OUR ON-LINE COMPUTER TERMINALS PRODUCE INFORMATION INSTANTLY,
ENABLING OUR COMPLIANCE EXAMINERS TO SPEND MORE TIME
ANALYZING CASH TRANSACTIONS.
-OUR ALERTS TO AUTHORIZED LAW ENFORCEMENT AGENCIES,
ABOUT SUSPICIOUS CASH TRANSACTIONS, ARE TIMELY.
-OUR RESPONSES TO THEIR INVESTIGATIVE REQUESTS ARE ALSO TIMELY.
BECAUSE WE HAVE THE ABILITY
TO DELIVER RELIABLE INFORMATION IMMEDIATELY,
STATE AND FEDERAL INVESTIGATORS
INCREASINGLY LOOK TO US FOR HELP.
CONSEQUENTLY, MONEY-LAUNDERING INVESTIGATIONS IN FLORIDA
ARE MORE SUCCESSFUL.
THIS YEAR, AT MY REQUEST, THE FLORIDA LEGISLATURE
AMENDED FLORIDA'S CURRENCY TRANSACTIONS REPORT (CTR) LAW,
BY PASSING THE
"FLORIDA CONTROL OF MONEY LAUNDERING
IN FINANCIAL INSTITUTIONS ACT."
THE NEW LAW...
-PROVIDES FOR ELECTRONIC TRANSMISSION OF CURRENCY TRANSACTION REPORTS,
WHICH WILL REDUCE THE WORKLOAD OF MOST INSTITUTIONS.
-PROVIDES A RETENTION PERIOD FOR FILED REPORTS.
-PROVIDES FOR MORE EXEMPT-CUSTOMER INFORMATION.
-PROVIDES INCREASED PENALTIES FOR WILLFUL VIOLATIONS.
-PROVIDES ADMINISTRATIVE FINES FOR NON-COMPLIANCE.
-AND PROVIDES FOR AN ADVISORY COUNCIL
TO STUDY THE ADMINISTRATION, BENEFITS, AND POSSIBLE FUNDING SOURCES
FOR FUTURE CTR OPERATIONS.
WE CONTINUE TO SEARCH FOR WEAPONS
WE CAN USE EFFECTIVELY AGAINST
ILLEGAL MONEY-LAUNDERING ACTIVITIES.
MEASURES WE'RE CONSIDERING INCLUDE:
-OBTAINING ACCESS TO REPORTS SUBMITTED IN RESPONSE
TO GEOGRAPHIC TARGETING-ORDERS
ISSUED BY THE UNITED STATES TREASURY DEPARTMENT;
-ASKING THE STATE LEGISLATURE TO MAKE PERMANENT
AN EXISTING INTERNATIONAL BANKING AND TRADE STUDY COMMISSION
TO CURTAIL MONEY LAUDNERING ON A PERMANENT BASIS.
-DEVELOPING A FAIR BUT EFFECTIVE REGULATORY ENVIRONMENT
FOR BUSINESSES THAT MOVE FUNDS ELECTRONICALLY,
-ESTABLISHING TWO MONEY-LAUNDERING STRIKE FORCES-
WITH THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE)
AND THE FLORIDA DEPARTMENT OF REVENUE; AND
-PREVENTING MONEY LAUNDERERS FROM OBTAINING LICENSES
TO HANDLE THE PUBLIC'S MONEY IN OTHER BUSINESSES,
SUCH AS SECURITIES DEALERS, MORTGAGE BROKERS, ETC.
I MENTION SOME OF THE IDEAS WE'RE CONSIDERING
TO EMPHASIZE THAT. IN FLORIDA,
WE INTEND TO INTENSIFY OUR NO-NONSENSE APPROACH
TO ILLEGAL MONEY-LAUNDERING ACTIVITIES.
IT IS NOT ENOUGH TO "JUST SAY NO" TO MONEY LAUNDERERS -
WE MUST USE EVERY LEGAL MEANS AT OUR DISPOSAL

TO PUT THEM OUT OF BUSINESS.
THE MIAMI COALITION FOR A DRUG-FREE COMMUNITY WILL SERVE
AS A MODEL FOR COMMUNITIES THROUGHOUT THE WORLD
LOOKING FOR WAYS TO FIGHT THE SPREAD OF ILLEGAL DRUG ACTIVITIES.
I'M PROUD TO BE ASSOCIATED WITH THE PEOPLE OF THIS COALITION,
WHO ARE DEVOTING SO MUCH OF THEIR TIME AND RESOURCES
TO THIS CRUCIAL STRUGGLE.
SINCE THIS IS A GLOBAL STRUGGLE,
THE KIND OF COORDINATION SHOWN BY THE MIAMI COALITION
IS ESSENTIAL BETWEEN NATIONS AND INSTITUTIONS
AROUND THE WORLD.
ARRANGING INTERNATIONAL COOPERATION, HOWEVER,
IS EASIER SAID THAN DONE.
IN ANOTHER ARENA, GENERAL NORIEGA DRAMATIZED
A GRIM
REALITY WE CONFRONT, WHEN HE SAID,
"TO THE UNDECIDED, A CLUB; TO THE ENEMY, A BULLET;
TO THE FRIEND, MONEY.'
BUT IF YOU EVER NEED JUST ONE COMPELLING DEMONSTRATION OF
A MORAL IMPERATIVE FOR ACTION,
GO TO A HOSPITAL AND
VISIT THE HIGH-RISK NURSERY FOR NEWBORN INFANTS.
IF SEEING WHAT "CRACK" COCAINE IS DOING TO BABIES
DOESN'T BREAK YOUR HEART -
AND STIR YOU TO TAKE MORE AGGRESSIVE ACTION
AGAINST MONEY LAUNDERERS,
THEN NO SPEECH OR SYMPOSIUM EVER WILL.

THANK YOU, FOR YOUR COURTEOUS ATTENTION.

Senator Kerry. Thank you very much, Mr. Lewis. We appreciate that. We'll come back with a round of questions in a second.

Mr. Mahoney, let me just ask before you do, we've been joined by Senator Graham. And I wondered is Senator Graham has any opening remarks he would like to make.

Senator Graham. Thank you, Mr. Chairman. I appreciate the generous comments of my good friend, Mr. Lewis.

Mr. Chairman, I have an opening statement I would like to file for the record.

Senator Graham. Mr. Lewis' statement raised an issue that is of great concern to me, and that is the adequacy of federal resources to carry out federal rhetoric. We heard yesterday, Mr. Chairman, and here let me anticipate again, Mr. Chairman, as did Senator Dixon and others, about the inadequacy of the federal support in some key agencies within the Office of Management and Budget and in HUD, which led to the failure to provide sufficient oversight and the resulting scandals in that agency.

In today's Washington Post, there is a very interesting column by David Broder in which he uses the term "the hollow government, a government that is a shell but with no substance beneath it."

Maybe Mr. Lewis has just directed us to another example of the hollow government where we are making statements as to what we intend to do relative to money laundering but without the capacity to carry those statements into reality.

I appreciate that contribution that he's made directing us to this serious oversight.

Senator Kerry. Thank you very much, Senator Graham.

Without objection, your whole statement will be made part of the record.

[The complete prepared statement of Senator Graham follows:]

OPENING STATEMENT OF SENATOR BOB GRAHAM

Senator GRAHAM. Good morning. I am pleased to be able to participate in this morning's hearing on the complex subject of money laundering. Our focus today will be on the responsibilities that the States, the banks, and non-bank institutions, like check cashing operations, have in regard to money laundering laws.

Money laundering is not a new activity—organized crime has always used the process to hide their illegal profits. But the narcotics traffickers have refocused law enforcements' attention on the process because of the incredible amount of money they are laundering. In Florida, the impact that "dirty money" has had on our local economies, real estate values, and banking practices is well-documented. It is commonly estimated that drug traffickers' illegal profits are larger than the gross profits of all the fortune 500 companies combined. That's over $100 billion a year. What the traffickers do with all this cash—much of it in small bills—is something we'll talk about today.

Targeting the profits that the drug kingpins take may not produce multiton cocaine hauls, but we know that these narco-terrorists are also profit-motivated businessmen. We can help shut their businesses down by affecting their bottomline.

The States and banks have been helping Federal law enforcement agencies collect currency transaction data and investigate money laundering cases. I hope our witnesses today will address how we can improve the data collection process, and speak to the issue of Federal-State cooperation in sharing that data.

The 1988 Anti-Drug Abuse Act amended both forfeiture statute and money laundering law. Senator Kerry was the driving force behind an amendment that requires the Secretary of Treasury to pursue international agreements that would establish a mechanism of sharing currency transaction information. We cannot discuss international currency movements without including wire transfers. Our witnesses on the second panel will address this important aspect of money laundering.

I hope panel 2 will also take this opportunity to share with us their reactions to treasury's announcement yesterday regarding the possible imposition of additional data collection, record-keeping, and customer background requirements for wire transfer services.

Mr. Chairman, thank you for calling this timely and relevant hearing. I look forward to hearing today's testimony and learning from the distinguished panels that are assembled.

Senator KERRY. Mr. Mahoney, if you would proceed with your testimony. And I would just ask you so that the record shows, share with us a little bit of your background in law enforcement and what brings you to this particular view.

STATEMENT OF TIMOTHY D. MAHONEY, DIRECTOR OF SPECIAL INVESTIGATIONS DIVISION, NEW YORK STATE DEPARTMENT OF BANKS, NEW YORK, NY, ACCOMPANIED BY LESLIE BENDER, SENIOR EXAMINER, LICENSE FINANCIAL SERVICES

Mr. MAHONEY. Mr. Chairman, I'm a former Supervisory Agent with the Federal Bureau of Investigation. I served with them for almost 21 years. That is my experience in law enforcement.

Mr. Chairman, I'm Timothy D. Mahoney, Director of the New York State Banking Department Special Investigations Division, and formerly Special Supervisory Agent of the Federal Bureau of Investigation.

I am joined this morning by Les Bender, Principal Examiner of the Department of License Financial Services Division, which is responsible for supervising the money transmitters and check cashers in the State of New York.

Speaking on behalf of Superintendent of Banks, Jill M. Considine, we are pleased to have this opportunity to provide our views on the proliferation of money laundering and what we are doing in New York State to identify and eliminate this abuse.

The U.S. Attorney General estimates drug dealings generate over $100 billion in street sales annually, most in small bills, and all of which eventually must be funneled or laundered through legitimate banking channels, both in the United States and abroad.

This poses practical problems, since $100 billion in 20 dollar bills translates into approximately 26 million pounds. A specific example:

A money laundering operation in New York shut down earlier this year required a tractor trailer to haul away $19 million in small bills.

Aside from smuggling suitcases of cash out of the country, a cumbersome and dangerous way of moving money, the most common way is to move it through our banking system through structured transactions, by compromising an employee, by passing it through cash businesses on the exempt list, or by smurfing—the process of buying multiple money orders for cash, usually in $500 denominations, then depositing them into regular bank accounts.

While the possibility of money laundering is a daily fact of life in our banks, there is no doubt that most bankers are doing everything they can to assure compliance with currency reporting requirements.

Clearly, CTR compliance is a costly burden. However, the threat of huge fines and bad publicity has made bankers focus on the problem as never before and cooperation is on the rise.

As banks became more sophisticated in reporting currency transactions, drug dealers became more creative and began to rely increasingly on unlicensed and illegal money transmitters, on check cashers and on money order vendors, all users and sources of huge amounts of cash.

Check cashers and money transmitters provide much needed services to the public, to consumers who don't have bank accounts or to those who regularly send money to their families abroad.

But, unlike banks that have both federal and state supervision, this growing industry segment is unique in that the State is the sole regulator.

Our licensees are working closely with the banking department to tighten regulations and are cooperating with us to identify and eliminate unlicensed competitors.

While our supervisory experience convinces us that most of our check-cashing licensees are operating legitimately, we recognize that a possibility of involvement in illegal activity, either by management directly or by one of its employees. However, it is primarily the unlicensed money transmitter who provides the best means of laundering money and is most often used to structure illegal transactions.

Each of our 35 licensed money transmitters posts a $500,000 bond with the Banking Department and complies with annual examinations and reporting requirements, including State and federal currency transaction statutes.

While this supervision does not entirely eliminate money laundering on the part of the licensees, it does provide deterrents. The magnitude of money transmitting, both legal and otherwise, is difficult to gauge. I've heard a figure of a trillion dollars a day for the nation as a whole, including aggregated payment and settlement transfers by the banks.

And once the laundered funds are deposited, the money trail is all but obliterated. Our own efforts to curb illegal money transmitters has helped us draft a proposal which will result in comprehensive regulation of this industry. We are also seeking legislative approval of measures that will make illegal money transmitting a

felony and allow us for the first time to review the records of agents of our licensees.

In addition, we are seeking authority to eliminate the power of agents to appoint sub-agents. Regulation and supervision of money transmitter agents and sub-agents is at the very heart of the enforcement issue. Licensees can be above board, but what about their agents? What about their sub-agents?

Are they reporting all transactions to the licensee? Or are they free-lancing?

Until we have authority to examine their records, we will never know for sure. The New York State Banking Department has an excellent cooperative relationship with the various State and federal enforcement agencies and we are an active participant of the joint federal/state task forces that have been formed to cope with this and other criminal issues related to banking.

New York has its own money laundering tool, Section 650, Article 13B of the Banking Law, which is effective against illegal transmitters despite its weak penalty provision, and it is an enforcement tool that is gaining increased respect with federal law enforcement agencies.

Once we suspect the money transmitter is operating illegally, we verify our suspicion by using our compliance examiners as consumers to put through a series of transactions. These transactions establish sufficient probable cause for a court to issue a search warrant, which allows us to seize their books and shut them down.

It is the subsequent examination of the books and records that ultimately give rise to felony charges for crimes such as money laundering, tax evasion or even loan sharking. This information available as a result of the broad scope of our financial regulation as compared to the federal banking regulators has proven unusually useful to various federal enforcement agencies.

Earlier, I spoke of bank compliance with currency reporting regulations. While our examinations reveal our banks are filing their CTRs on a timely basis, the obvious difficulty is reviewing 4.8 million CTRs filed last year, and the projected six million CTRs to be filed this coming year.

It is my belief that sufficient resources to analyze these records adequately is not available. It's going to take creative activity and teamwork between the federal and State agencies to do it.

Right now, apparently, there's a lot of paper piling up in warehouses. Not good for immediate enforcement use.

To remedy this, I suggest that appropriate State agencies become more directly involved in sharing Treasury Department's CTR data, not only on a case by case fashion as a result of discrete investigations, but on an ongoing basis through agreements such as California has signed with the federal agency, Treasury.

Clearly, it is the sharing of information that is crucial in the battle against drug-dealing and money laundering. Barriers to information-sharing between State and federal law enforcement groups or agencies such as ours must be bridged. Turf battles have to be put on hold at least until we get a handle on our problems.

The States and Cities have one great advantage in law enforcement. Their enforcement agencies are closer to the people and to

the communities and to businesses, legitimate and otherwise that serve them.

State and local law enforcement can be an enormous resource for over-burdened federal authorities if they are encouraged to become part of the team.

While this may mean some reallocation of scarce federal resources to help the States, it would be money well-spent.

Thank you for your time.

[The complete statement of Timothy D. Mahoney follows:]

TESTIMONY OF

TIMOTHY D. MAHONEY
DIRECTOR, SPECIAL INVESTIGATIONS DIVISION
NEW YORK STATE BANKING DEPARTMENT

and

LEE BENDER
PRINCIPAL EXAMINER, LICENSED FINANCIAL SERVICES DIVISION
NEW YORK STATE BANKING DEPARTMENT

on

A STATE'S PERSPECTIVE ON MONEY LAUNDERING

Before the

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS
BANKING COMMITTEE
UNITED STATES SENATE

November 1, 1989
Room SD-538, Dirksen Senate Office Building

Good morning!

Mr. Chairman, I am Timothy D. Mahoney, Director of the New York State Banking Department's Special Investigations Division, and formerly, Supervisory Special Agent of the Federal Bureau of Investigation's Newark, N.J. office.

I am joined this morning by Les Bender, Principal Examiner of the Department's Licensed Financial Services Division which is responsible for supervising money transmitters and check cashing operators in the State of New York.

Speaking on behalf of Superintendent of Banks Jill M. Considine, we are pleased to have this opportunity to provide our views on the proliferation of money laundering and what we are doing in New York State to identify and eliminate this abuse.

I also will address the coordination efforts of state and federal enforcement agencies; describe state and federal laws we have found most effective in dealing with the problem, and finally, outline some of our suggestions to strengthen enforcement.

The U.S. Attorney General estimates drug dealings generate over $100 billion in street sales annually, most in small bills, and all of which eventually must be funnelled or "laundered" through legitimate banking channels both in the United States and abroad.

This poses practical problems since $100 billion in $20 bills translates into approximately 26 million pounds. A specific example: a money laundering operation in New York shutdown earlier this year required a tractor trailer truck to haul away $19 million in small bills.

And, I'm sure all of you saw the television coverage of a huge drug bust in California recently: a warehouse full of drugs, and carton after carton after carton stuffed with small denomination bills that had to laundered if the funds were ever to be useful.

Aside from smuggling suitcases full of cash out of the country -- a cumbersome and dangerous way of moving money -- the most common method is to move it through our banking system: through structured transactions, by compromising an employee, by passing it through cash businesses on the exempt list, or by "smurfing," the process of buying multiple money orders for cash, usually in $500 denominations, then depositing them in regular bank accounts.

Recognizing the need for more effective regulation of the financial entities we charter or license -- the check cashers, and money transmitters, as well as banks -- the New York State Banking Department received legislative approval in 1987 to create a Special Investigations Division (SID).

Today, the SID has a full-time staff of seven, including two former FBI agents, and is additionally supported on an as-needed basis by examiners from the Thrift, Commercial Banks, Mortgages, and Licensed Financial Services divisions.

Our functions include:

Investigating the character and fitness of those applying for charters and licenses to ensure that our financial system is not used to further criminal activity.

Continuing interface with local, state and federal law enforcement authorities in matters involving financial

institutions.

And, participation with local police, or state and federal agencies in task force operations to obtain evidence of illegal activity, including fraud and money laundering for drug purposes or tax evasion.

While the possibility of money laundering is a daily fact of life at our banks, there is no doubt that most bankers are doing everything they can to assure compliance with currency reporting requirements. Clearly, CTR compliance is a costly burden. However, the threat of huge fines and bad publicity has made bankers focus on the problem as never before and cooperation is on the rise.

In fact, just a few weeks ago, we received a call from two large money-center banks informing us that a couple of their accounts had large cash transactions going through them, large enough to arouse suspicion. This matter is currently under joint investigation with the U.S. Customs Service.

Even a compromised bank manager who structures cash deposits for drug dealers and others will most likely be tripped up in time by internal procedures and dismissed. But this creates another problem: when a manager is dismissed, but without criminal charges filed, he or she can move to another bank without detection and become a weak link in that organization.

As banks became more sophisticated in reporting currency transactions, drug dealers became more creative and began to rely increasingly on unlicensed and illegal money transmitters, on check

cashers, and money order vendors, all users and sources of huge amounts of cash.

In 1987, for example, our 378 licensed New York check cashers cashed some 28 million checks totaling $8 billion.

Check cashers and money transmitters provide much needed services to the public, to consumers who don't have bank accounts or to those who regularly send money to their families abroad. Unlike banks that have both state and federal supervision, this growing industry segment is unique in that the state is the sole regulator. Our licensees are working closely with the Banking Department to tighten regulations, and are cooperating with us to identify and eliminate unlicensed competitors.

While our supervisory experience convinces us that most all of our check cashing licensees are operating legitimately, we recognize the possibility of involvement in illegal activity either by the management directly or one of its employees.

"Smurfing" is a common means of money laundering. It is easy to do and leaves an all but impossible trail to follow.

To help control this abuse, the Banking Department recently issued a regulation which requires check cashers -- all agents for the sale of money orders -- to keep detailed daily records of money orders, aggregating $3,000 or more, sold in a single day to the same person. This record must include the buyer's name and address, the form of identification used to identify the buyer, the method of payment, and, if paid by check, the bank name and routing number.

While this may put a crimp in smurfing, it will not seriously curtail its use as a means of converting cash to checks until money orders are subject to currency transaction requirements for cash.

It is primarily the unlicensed money transmitter who provides the best means of laundering money. Typically, a customer who wishes to transfer money to an individual or firm gives the funds to the transmitter, who then faxes an order to an agent or branch at the designated location to disburse the money to the individual, upon confirmation of identity, or to deposit the funds into a designated foreign bank account. To reimburse the paying agent, the New York transmitter settles its account through normal banking channels, or other arrangements.

Depository banks have always been permitted to transmit funds, but the fees are steep and they often require customers to maintain accounts at both the sending and receiving institutions. In addition, the many legitimate money transmitter customers who send monthly cash allotments to relatives at home are reluctant to deal with big institutions that have little identity in their ethnic communities and do not speak their language.

Each of our 35 licensed money transmitters posts a $500,000 bond with the Banking Department and complies with annual examinations and reporting regulations including state and federal currency transaction statutes. While this supervision does not entirely eliminate money laundering on the part of licensees, it does provide deterrence.

It is our experience with unlicensed transmitters, however,

that suggests they are most often being used to structure illegal transactions. One such example: Remesas Seguras, a now defunct telegraph company, was the subject of a prosecution in the Eastern District of New York. We know individuals in the firm were specifically instructed to re-structure transactions to under $10,000 to avoid filing currency transaction reports. We also know by comparing legitimate claims with company transaction records that a large number of transactions are going unclaimed. While some of these undoubtedly come from undocumented aliens afraid to come forward, we suspect that much of the proceeds come from drug-related money laundering and tax evasion.

The magnitude of money transmitting, both legal and otherwise, is difficult to gauge. I have heard a figure of $1 trillion a day for the nation as a whole, including aggregated payment and settlement transfers by banks. And, once the laundered funds are deposited, the money trail is all but obliterated.

Since 1987, the Banking Department has embarked on a three-pronged enforcement program to notify suspected unlicensed money transmitters of the requirements of the law. 182 Demand Notices were sent to suspected unlicensed money transmitters in New York City asking for lists of their officers, directors and home addresses.

Phase two involved the subsequent issuance of 159 Cease and Desist Orders. Of those who complied, five of the major operators in the city became licensed -- including Western Union -- 26 became agents of licensed operators, 23 others ceased operations, and two

of the biggest offenders were closed in a joint action by the Department, State Police and the State Attorney general's Office.

Phase three is the slow and painstaking process of obtaining sufficient evidence to prosecute offenders who continue to flout the law. Couple this effort with the ease in which new storefront money transmitters open, needing little more than a fax machine, and quickly taking the place of those we close, and you have some idea of the complexity and difficulty of policing this lucrative business.

Our experience has resulted in a proposal which will result in comprehensive regulation of money transmitters. We are also seeking Legislative approval of measures that will make illegal money transmitting a felony, and allow us, for the first time, to review the records of the agents of our licensees. In addition, we are also seeking to eliminate the power of agents to appoint sub-agents.

Regulation and supervision of money transmitter agents and sub-agents is at the very heart of the enforcement issue. Licensees can be above-board, but what about their agents, and the sub-agents? Are they reporting all transactions to the licensee, or are they freelancing? Until we have authority to examine their records we will never know for sure.

The New York Banking Department has an excellent cooperative relationship with the various state and federal enforcement agencies. And, we are an active participant of the joint federal-state task forces that have been formed to cope with this and other

criminal issues related to banking.

Indeed, it was this cooperation with the U.S. Customs Service that led to the seizure earlier this year of $3 million, a small part of a $700 million non-narcotic related money-laundering case involving a foreign bank operating illegally, the largest of its kind in the history of the Customs Service.

New York has its own money-laundering tool -- Section 640, Article XIII-B, of the Banking Law -- which is effective against illegal transmitters, despite its weak penalty provision. And, it is an enforcement tool that is gaining increased respect from federal law enforcement agencies.

Once we suspect a money transmitter is operating illegally, we verify our suspicion by using our compliance examiners as "consumers" to put through a series of transactions. These transactions establish sufficient probable cause for a court to issue a search warrant which allows us to seize their books and shut them down. It is the subsequent examination of the books and records that ultimately give rise to felony charges for crimes such as money laundering, tax evasion, or even loan sharking. This information, available as a result of the broad scope of our financial regulation as compared to federal banking regulators, has proven unusually useful to various federal enforcement agencies.

Earlier I spoke of bank compliance with the currency reporting regulations. While our examinations reveal our banks are filing their CTRs on a timely basis, the obvious difficulty is in reviewing the 4.8 million CTRs filed last year and the projected

6 million plus CTRs to be filed this coming year. To adequately analyze the mountains of information on these CTRs requires creative use of resources and teamwork; within state and localities, and between state and federal agencies. Right now there is a lot of paper filling up a lot of warehouse space, not much good for immediate enforcement use.

To remedy this, I suggest our appropriate state agencies become more directly involved in sharing the Treasury Department's CTR data, not only on a case-by-case fashion as a result of discrete investigations, but on an on-going basis through agreements such as California has signed with federal agencies.

Clearly, it is the sharing of information that is crucial in the battle against drug dealing and money laundering. Barriers to information sharing between state and federal law enforcement groups or agencies such as ours must be bridged, and turf battles put on hold, at least until we get a handle on our problems.

The states and cities have one great advantage in law enforcement: their agencies and police are closer to the people, to their communities, and the businesses -- legitimate and otherwise -- that serve them. State and local law enforcement can be an enormous resource for overburdened federal authorities if they are encouraged to become a part of the team. While this may mean some reallocation of scarce federal resources to help the states, it will be money well spent.

Thank you for letting us share our views on these important issues. We will be pleased to respond to any questions.

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END

Senator KERRY. Thank you very much, Mr. Mahoney. I appreciate that testimony. Let me just follow up quickly on the $1 trillion figure you mentioned.

Are you asserting that there's a one trillion dollar daily transaction total business through these? You're not talking about laundered money?

Mr. MAHONEY. Not laundered money. It's totally what we believe those to be.

Senator KERRY. And there's no way to estimate the amount of laundering that goes on? Is that correct?

Mr. MAHONEY. The only thing we can do is speculate, based upon the article that appeared in the New York Times earlier in the week that 17 percent of all the transactions might be suspicious.

Senator KERRY. Is it fair to assume that there is an increasing shift in money laundering away from that which goes through the banking structure to that going through these small store fronts and checking facilities, and so forth?

Mr. MAHONEY. Mr. Chairman, definitely. We've had three cases in New York that suggest that. We have at least four others that are currently under investigation. We have seen structured transactions. We have seen money going to Cali and Medellin Colombia. And it's obvious that they are going away from the banking institutions and financial institutions.

In New York, they are using illegitimate money transmitters.

Senator KERRY. There are some obvious questions to ask about the regulatory process with respect to those items. And I want to come to that, but I want to come back to something that both of you have underscored—the resource issue.

Senator Graham talks about the hollow shell issue raised by David Broder. Is there anything that has discredited Operation Greenback, to your knowledge, Mr. Lewis?

Mr. LEWIS. Mr. Chairman, I think they've been very successful. That's why it's been frustrating to us to see cutbacks in the number of personnel.

Senator KERRY. It's fair to say that Operation Greenback resulted in a number of prosecutions, most notable among them the BCCI Bank. Correct?

Mr. LEWIS. I believe that was a part of that, yes.

Senator KERRY. Now, in December 1979, Operation Greenback was formed. That's a 10-year record. It was created by attorneys from the U.S. Treasury Department, Offices of Justice Department, DEA and, in 1981, it expanded significantly because of its success. This year, the U.S. Customs has pulled out all of its agents, managers and intelligence analysts and computers, totalling abandoning its operation. DEA has pulled out all of its agents, totally abandoning the operation.

The United States Attorney in Miami has eliminated the designation of Operation Greenback Attorney, for those assistants in the office who were working on the case.

They have closed the Organized Crime and Drug Enforcement Task Force Investigation called Operation Greenback. The IRS has removed its receptionist and clerical support to Operation Greenback. The Customs has closed down the telephone lines to Operation Greenback. And the CTRs filed in the banking community

are reaching an all-time high, at the same time as the President of the United States has said:

"We are expanding our efforts in money laundering."

Can you explain that? Either of you?

Mr. MAHONEY. I can't.

Senator KERRY. I beg your pardon.

Mr. MAHONEY. Mr. Chairman, I can't.

Senator KERRY. What is the impact going to be on our money laundering efforts in the region, Mr. Lewis?

Mr. LEWIS. Mr. Chairman, I cannot imagine how the operation could be very successful. As I say, just last week, the Attorney General, speaking at the Miami Symposium, commended Operation Greenback. That's been our experience also, that it has been successful.

And we had gotten to the point that they had been very cooperative with us. There's a world of change over the last nine years.

Senator KERRY. It's clear that there's some kind of shell game going on and that probably merits considerably more examination than we have time for here today.

But I can assure you, as Chairman, I intend both in this effort and the one for the other Committee, that we are going to pursue this question because I think it's critical.

How many foreign banks operate in Florida, Mr. Lewis?

Mr. LEWIS. Mr. Chairman, I think there are about 50 at the present time. I think that is the approximate number.

Senator KERRY. And you say in your testimony that money laundering through anonymous cash deposits into banks has essentially been eliminated to your best estimate.

Is that accurate?

Mr. LEWIS. By that, I mean the people that come into the bank with the million dollars in cash in a paper sack and try to deposit it at the teller window.

Senator KERRY. Which really underscores the capacity, if you know your customer, to have an impact. And also the deterrent process of recordation and reporting to have an impact. Correct?

Mr. LEWIS. Yes, sir.

Senator KERRY. That has shifted it to wire transfers, has it not?

Mr. LEWIS. Absolutely. I believe you mentioned, or one of the other Senators the use of foreign banks.

Senator KERRY. How then do you react to Treasury's proposed rulemaking regarding wire transfers and the lack of any imposition of restriction on their access to CHIPS in New York or the use of our Clearing House for non-adherence by foreign banks to the same standards?

Do you see that as a problem?

Mr. LEWIS. We think it is a problem, Mr. Chairman. We've just seen Treasury's proposals and I wouldn't feel qualified to comment on them. I think, very clearly, this is an area that needs to be addressed. They are addressing it and we're looking at it.

We have some input into that. But, clearly, that is the problem.

Senator KERRY. I'll have some more questions for another round. Let me turn to Senator Bond.

Senator BOND. Thank you, Senator Kerry. I'd like to follow up with Mr. Lewis on his discussion about the level of compliance.

Do you see any difference between the activity level of compliance efforts between banks, thrifts and credit unions? Has there been a shift in attempted laundering among these? Do they all experience the same amount?

Mr. LEWIS. Senator, I don't think credit unions, to my knowledge, at least in Florida, have figured into the equation very much. And I'm not sure there's been any difference between banks and savings and loans.

Compliance has been excellent by all the institutions we monitor, and that does include national as well as State-chartered institutions.

Again, we know that by cross-checking with IRS. They have been very cooperative with us to the extent they can be.

Senator BOND. One of the things that concerns us, obviously, we're going through some major upheavals in the thrifts. Many of them are in conservatorships or in other states of disarray. With focus on conservatorships, is this a likely area of weakness? Do you see any problems as the thrifts go through changed regulation, as they're either taken over or put under conservatorships?

Are we opening up cracks for money laundering there?

Mr. LEWIS. I don't offhand see where that would be.

Senator BOND. The same efforts will prevail at least at the teller window. They're not going to be worried about whose running it. They're still going to be looking for the suspicious transaction customer who behaves out of an ordinary pattern.

Mr. LEWIS. I think so. I had the privilege of testifying before this Committee just a few weeks ago and I made reference to the FDIC. Our experience with them is that they are really an exceptional agency and I'm sure they're going to be very careful about their oversight.

Senator BOND. I'd like to turn to another question.

In one of the subsequent panels, Mr. Sargent testifying on behalf of the Independent Bankers Association of America contends that the regulatory burden on banks in complying with the Bank Secrecy Act is totally out of line with the benefits of the reporting to the government.

I'd like to begin with Mr. Mahoney. Do you share that concern? Is it too great a burden?

Mr. MAHONEY. I don't believe it is at the present time, Mr. Bond. I think it's something we have to look at because there is a tremendous amount of money laundering going on. And the only way we can follow the paper trail is if the CTRs are filed.

Senator BOND. I might ask Mr. Lewis if he feels that the burdens are onerous from his experience, or if he sees there are ways in which the burdens might be lessened.

Mr. LEWIS. Senator, I agree with Mr. Mahoney. Number one, I don't think the burden is onerous. Clearly, it's an additional burden.

But, the problem is a monumental problem and it's one I think that we all have to work towards solving.

And the Florida Bankers Association, as I mentioned, did support our Currency Transaction law. I don't think it was a favorite piece of legislation. But I think they've been good corporate citizens, as

did the Florida International Bankers Association support that law.

They supported our efforts, and they supported a piece of legislation that was enacted last year that closely tracks the federal money laundering statute, not just currency transaction reporting but money laundering.

They supported that, so I think they recognize that they'd just as soon perhaps not be doing it. But it's a responsibility that we all have.

Senator BOND. Would uniform electronic filing make it easier on the banks? Or would it make it more difficult for your supervisory efforts?

Mr. LEWIS. I think it would be easier, Senator. First of all, the Florida Legislature did enact that law last year. It's identical now to the federal law. And, again, as soon as we get the IRS form, we will be ready to go.

I think that will ease the burden on banks and on us.

Senator BOND. Mr. Mahoney.

Mr. MAHONEY. I agree. We're looking forward to doing the same thing in New York State, to get access to all of the IRS magnetic tapes, so that we'll be able to make the necessary comparisons of CTRs before we go into financial institutions to determine if, in fact, they have filed CTRs they claim they have with IRS.

Senator BOND. A final question I would just ask both of you.

Do you see at this point any specific legislative changes that would make your job easier and more efficient and more effective? Mr. Mahoney?

Mr. MAHONEY. I think New York State is probably going to have to look at the money laundering bill that was passed in 1988 to probably revise it to put it in line with the federal money laundering bill.

That definitely would help. We probably would have to consider legislation if that is the only way to gain access to the CTR information that Treasury has.

I believe it's my understanding now that to gain access if you don't have a State enabling statute, that it has to be given to a law enforcement type agency. Both of those would be very helpful to us.

Senator BOND. Mr. Lewis.

Mr. LEWIS. Senator, the Florida Legislature just last year created an International Banking and Trade Study Commission. Study is misleading. I wish they had left it out. We were an active committee. We met just last week with representatives of federal and State law enforcement agencies and got a lot of good ideas on initiatives that we perhaps will need to take at the State level.

One is one that Senator D'Amato and Mr. Mahoney addressed. That's money transmitters. That is a problem in Florida as well.

We have been working with the New York Banking Department to see what they've been doing, to get the benefit of their expertise, to see how we can handle it. It is a very difficult problem in Florida. Very similar I think to some situations you have.

We have a lot of immigrants from countries like Nicaragua, Haiti, Cuba and a lot of these people are innocent victims. The dif-

ficulty of proving cases is just one thing that we want to see how we can get a handle on the problem.

Again, we're looking very closely at Treasury's recommendations on wire transfers. That is clearly an important area. Exactly what the best way to handle that is, I don't know. And doing it in such a way, as the Chairman mentioned, in such a way that our domestic banks retain their competitiveness with foreign banks.

These are difficult questions and I respect you for tackling this because, in my humble opinion, you have to draw that line that allows the free enterprise system to work and allows the global economy to work and yet crack down on this horror of drug trafficking.

But, where you draw that line and how you do it is not easy. And I know I'm being repetitious, but I really think, with the limited resources that every one of us has at every level of government, that we ought to work together.

Mr. Mahoney talked about the turf battles. I couldn't agree with him more. We don't have the luxury of doing that. None of us has the resources to tackle this problem; we're only dealing with a little bit of it.

I'm just looking at an article from the New York Times, September 25th of this year, where the Treasury Department has recently begun to create a center tentatively named the Financial Crimes Enforcement Network. It will coordinate information on money laundering activities for more than half a dozen federal agencies. Federal agencies.

If their intent is not to share with States and not to get input from the States, then my feeling is they're missing a vital resource. Someone mentioned the Memorandum of Understanding with the State of California. I would suggest that's sort of good, but you'll notice in there the information flow was one way. And that's from the State of California to the federal government.

Nothing in the memorandum provides for sharing of information with the State. It would bother me very much entering into that kind of an agreement for the State of Florida.

I understand there are some laws that restrict the dissemination of information, especially from law enforcement agencies to regulatory agencies. I understand that. I don't have any problem with that. But, that's not the hang-up in a lot of our cases.

Somewhere up in the bureaucracy, and I don't know where, and I've already given the example, we have an excellent working relationship at the field level. Some things have improved drastically over the last nine years, but waiting for over a year from IRS for a form—for a form—so that we can program our computers——

Senator KERRY. Why has the form not beer. forthcoming? Do you know?

Mr. LEWIS. No, sir.

Senator KERRY. Has the form been designed?

Mr. LEWIS. I don't know.

Senator KERRY. How many inquiries have you made regarding the form?

Mr. LEWIS. I have here copies of four inter-office memos just within our office saying it's on the way, it's on the way. I honestly, Mr. Chairman, don't know.

Senator KERRY. Thank you, gentlemen.

If my colleagues will indulge me just one minute, I'd like to ask something.

Both of you talked about these check-cashing and store front operations as a prime source of the problem. And you've just said again and again none of us have the resources to tackle this problem.

Now it's not conceptually difficult, is it, to understand, to design a system that gains accountability on any of those store fronts, is it?

Mr. MAHONEY. Mr. Kerry, the problem is we have to identify who they are. And the way we are presently doing it is by reviewing ethnic type newspapers. We're taking complaints from legitimate operators who are complaining that down the street there is an illegal money transmitter operating.

That's the avenue of approach that we have at the present time. In New York, we have approximately a list of 135 that fall into this category. I would say to you that that is probably just the tip of the iceberg.

Mr. LEWIS. Mr. Chairman, if I may comment, a member of my staff just reminded me that he is going from Washington to Austin, Texas tomorrow for a meeting of a number of States to discuss this problem on a multi-state basis.

Senator KERRY. Why don't you share with the Committee so the record is clear exactly how the illegal transmitter works?

How does that money actually get——

Mr. MAHONEY. If I may answer that, Mr. Kerry.

What basically happens is they advertise in an ethnic type newspaper. They usually put signs on the store front that would suggest Western Union. They may even have signs that say New York State Banking. They give the appearance of being perfectly legitimate.

The people in the neighborhood utilize them because of the language capability. They feel very comfortable going in there as opposed to going to a financial institution where they probably will be charged more money to transmit their funds out of the country.

Basically, what they do is they go in and the legitimate ones who are sending small amounts, maybe $100 or $150, just give the money to the person behind the counter. A small fee will be charged. The fee might be $5 if you want to transmit $50. And you will be given a receipt and your funds are generally inputted to a financial institution in New York State, transferred to a bank in Florida and then wired out of the country.

Senator KERRY. The question is then why can there not be a stop gap at the bank level where the person comes in with the cash?

Mr. MAHONEY. The cover that they use might be a travel agency, or it might be a courier service. The bank, if it's alert enough, should realize that a travel service basically deals with credit checks from American Express, from Master Card or from Visa; if they're coming in with a large amount of cash, suspicion should be raised.

But it hasn't so far to date.

Senator KERRY. So it goes back to the know your customer philosophy?

Mr. MAHONEY. I would say that is probably the best answer.

Senator KERRY. Senator Riegle, or Senator Dixon?

Senator Riegle.

Chairman RIEGLE. Let me on that very issue go back to your testimony. In terms of these storefront operations that do these money transmissions and do money orders and such, should we consider pulling that within the scope of federal law?

I mean, if we've got a drug problem the size that we do that's destroying part of the country and getting worse, not better, should we not find a way to reach out and get our hands around anybody that's in the money transfer business now that this is the critical part of maintaining the drug empire?

Mr. MAHONEY. Senator, it's probably something we should look at.

Chairman RIEGLE. You see, if we did that, if we actually required by federal law that anybody that's going to be involved in the money transfer business has to come under federal supervision and some kind of licensing and control, you could have a set-up where, for somebody to be able to do that legally, they would be so designated and they'd have a seal on the window.

And anybody that tried to do it that didn't have that would self-identify as somebody outside the law.

And I would think today in the age of computers that we could plug those outfits literally into either a central computer state by state or even major cities, if you've got New York or Miami. Those are very large areas where maybe a lot of that goes on, where you could virtually on a real time basis at the end of the day, you would know how much money had gone through each one. You could identify it by name.

We've got the capacity to do these things. Why should we stand by and allow literally tens of billions of dollars to flow around through that kind of a system when we've got the capacity to capture it?

Mr. MAHONEY. That certainly would be a possible solution that should be looked at. But, if we put our finger in that hole in the dike, they'll probably find another one.

Chairman RIEGLE. Yes, one can always say that. But I think the purpose of this hearing is to show that the movement of the money is the critical part of what sustains the drug empire. I was struck by the testimony that you've given here and your comments about the sheer physical size of the amounts of money that we are talking about.

It's been said—you say it in your testimony—a hundred billion dollars. If you visualize it in 20 dollar bills, that translates to approximately 26 million pounds of paper. And you gave an example where one money laundering operation in New York shut down last year required a tractor trailer to haul away just $19 million in small bills. So that the volume of the money, because it's in small bills, is so vast that, in a sense, if we can figure out a way to reach in and catch the illegal transfer of this money, you can do major damage to the drug empire.

This is one of the most important things we can do. We're trying to catch all these drug dealers out on the street corners and are not doing a very good job.

It seems to me that if you can really find a way to capture this money transfer system and really crack down hard on that, you've probably done more damage to the drug empire than almost anything else you could do.

It's a money business. And if you interrupt the flow of money, you've seriously damaged the business. It just seems to me that for us to be sitting here today when we've got a problem of this size and all of these street corner operations are laundering this money in $500 money orders or such things as that, and we know it's out there, and we're trying to do what we can about it, but we don't come down in a massive way to crack down on it, I just think doesn't make sense.

We ought to bring the hammer down on that just about as hard as we possibly can.

Mr. MAHONEY. I think it's an excellent thought. In New York, if I may go back to our problem again, we've had dealing with the illegals where we've surveyed the lenders and we've told them they should come in and become licensed and become regulated. And they totally ignore them. In fact, we set up a search warrant on one particular establishment and we found our letter on the floor of the business itself.

Chairman RIEGLE. The point is, if you require regulation, if you require licensing and regulation, and you make it a criminal charge not to be so licensed, maybe we need to do that at the federal level.

Then you've got the means to go in there on any given day. Somebody's got to show a federal seal on the door that makes it clear that they're legitimate to operate, and part of a surveillance system that can be done by high-speed computers so we know what's going on. We can check the records, and so forth.

Then you've got to believe you're going to put these people out of business. I don't know what should be a higher priority. I hear the Drug Czar talking about different ideas here and there, and it seems to me the sooner we hit this flow of money and really disrupt this business, the sooner we're going to see real results.

Mr. MAHONEY. I totally agree.

Chairman RIEGLE. Thank you, Mr. Chairman.

Senator KERRY. Thank you, Senator RIEGLE.

I want to apologize to Senator Dixon. Half the Committees I serve on work on the early bird rule and half work on seniority. And I was apparently shifting the early bird to the seniority, and I'll never chair again as a result. [Laughter.]

Senator Dixon.

Senator DIXON. Mr. Chairman, thank you very much.

I'm intrigued, as is my colleague, the Chairman of the Committee, about this testimony about check-cashing. Different States of course have different rules and regulations.

Do I form the impression, Mr. MAHONEY, from what you and Mr. Lewis are saying that you don't regulate check-cashing in your States essentially?

Mr. LEWIS. That is correct, Senator. We have no regulation.

Senator DIXON. You see, we have a special type of separate regulation for agencies in my State that are called currency exchanges in Illinois. There are laws governing currency exchanges. In every

ethnic neighborhood of all of our major urban centers in Illinois, there are currency exchanges.

I'm intrigued when I listen to your testimony about the fact that they're apparently similar to the check-cashing you experience in the States of New York and Florida in that people go in there, often they find that people speak the particular language that they speak in these particular neighborhood agencies, and so forth. And most of the transmitting of money back home and the cashing of small checks and even applying for license plates and a variety of things take place in those institutions.

Is that similar to what you two are referring to here? That kind of an operation?

Mr. MAHONEY. We basically, Senator Dixon, do regulate check-cashers in New York and we regulate money transmitters.

Senator DIXON. So that you are talking about the fact that beyond that, there is this illegal operation that you are not capturing.

Is that right?

Mr. MAHONEY. We've identified and we're working jointly with the federal authorities and with the Attorney General's Office in New York to formulate a program to go after them, yes.

Senator DIXON. Let me ask you this.

Clearly, the Bank Secrecy Act of 1970 refers to banks. When you talk about the CTR's and the CMIR's on the handling of larger funds, what about the 1986 Money Laundering Act?

My summation of it here on my sheet doesn't indicate whether that's limited to banks or not? It increases the Treasury Department's authority to investigate suspected money laundering and requires stricter identification or cash purchases of money instruments greater than $3,000, and so forth.

Do you know whether that could be usefully employed in these check-cashing operations? Or is that limited to banks as well? Or, do you know?

Mr. MAHONEY. I would say that would be applicable to check-cashing institutions. It would be applicable to money transmitters also.

Senator DIXON. See, I would agree with my colleague from Michigan that if this great untapped group of operations out there is not yet covered by some kind of federal law, we ought to do something about it.

It occurs to me that this 1986 Money Laundering Act may give at least federal authority something in the way of an instrument to do something about it. It may be that we would want to look at that to broaden it.

Mr. MAHONEY. When we do our BSA compliance exam, the Bank Secrecy Act compliance exam, we do look at that. We do these usually in alternate years.

Senator DIXON. May I pursue the question in your State as independent from Mr. Lewis' state, Mr. Mahoney?

I take it that you do go into these licensed money check-cashing places and you look at them?

Mr. MAHONEY. Yes, we do, sir.

Senator DIXON. Do I understand your testimony to be that they are not the problem?

Mr. MAHONEY. The check-cashers are not the problem.

Senator DIXON. So that licensed places in your State, like banks, you are able to pretty well-identify. You're pretty able to regulate them? You can prevent this from taking place there.

Is that right?

Mr. MAHONEY. That is correct, Senator.

Senator DIXON. Of course, in your State of Florida, you don't license those kind of people, Mr. Lewis, I understand your testimony to be.

Mr. LEWIS. That's correct.

Senator DIXON. But, what both of you are saying is, what you are essentially testifying to is the fact that anything out there that's not regulated, that's either operating surreptitiously, illegally or, frankly, just out there doing business because you don't have a law to regulate it, the business has moved out of the financial institutions which were adequately regulated and it's being done in those institutions?

Is that the testimony of both of you?

Mr. LEWIS. I think, to some extent, in Florida, yes, Senator.

Could I with some hesitation—let me just say this. I would wholeheartedly support Senator Riegle's suggestion of a federal law. But I would again respectfully suggest that without the resources, I guess I'm not enamored of laws if they're not workable.

Chairman RIEGLE. Would you yield at that point?

Senator DIXON. Sure.

Chairman RIEGLE. I was thinking about that very thing. How do you pay to set up a network like this? I'll tell you how I think we ought to pay for it. I think we ought to pay for it with the proceeds of drug busts and convictions, where we get the money, and make the drug network itself pay for it. Preempt that money in order to build a system in place that breaks the drug network apart.

Now, you know, there's an awful lot of money out there and once we do a better job of getting our hands on it, then we've got some of the money to pay for the machinery to stop the drug traffic.

I think that's where the money ought to come from.

Senator DIXON. I thank my colleague from Michigan. I want to return to this central theme, if I may, Mr. Chairman, just to see if I understand the problem as you see it in your two States, because it's clear to me, Mr. Chairman, and I see my time is running out, that your two States are doing a better than average job as States in trying to address this problem in addition to what the federal government does.

And I'm getting the impression, at least from Mr. Lewis, that maybe they're not doing clearly all they ought to do.

But I think what both of you are saying is that what we've done so far, and of course my colleague from Massachusetts in an act passed last year, is beginning to look at offshore. But I think you're both saying that what we've done so far, the acts on the books pretty well are being complied with by banks and financial institutions. That your problem on money laundering is no longer there in the legitimate institutions in our country.

Is that what you are essentially both saying? That it's going to the back alley? Into the operations of the check-cashers and others

independent of the wire problem? That that's where it's being done now?

Mr. LEWIS. Senator, I think that's fair. I think some of the money is finding its way into banking institutions, but it's not being done directly. It's gone through foreign banks.

Senator KERRY. The distinction, if my colleague would yield, is it's not being done through the individual coming in with a bag full of cash.

Now, I want to buy a $1 million Certificate of Deposit, or whatever. But, it still has a problem with respect to cash businesses that are depositing directly into banks that are fronts.

Senator DIXON. It's being passed through these check-cashers. It ultimately still is finding its way—I understand the Chair's point—into the financial institutions by other methods.

Mr. MAHONEY. It's primarily the money transmitters, the illegal money transmitters, that are causing the problem.

Senator DIXON. Yes.

I thank the chair.

Senator KERRY. Thank you very much, Senator Dixon.

Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Mr. Chairman, I was very much concerned about Mr. Lewis' observations about Operation Greenback, because when you have an operation which is a success, we know going to the heart of the cartel is getting their assets, whether it's in forfeitures or whether it's breaking up a money laundering apparatus, there will be great dividends in return for the manpower and dollars that we've placed in it.

I have been informed, Customs tells us, that one of the problems was apparently that the new U.S. Attorney in Miami decided against co-locating.

Were you advised of that, Mr. Lewis?

Mr. LEWIS. I'm not certain if I was instructed by his office.

Senator D'AMATO. Let me share this information with you and the Committee. The new U.S. Attorney in Miami decided against co-locating, that is, bringing his assistants, his resources and investigators, et cetera into the same office with Operation Greenback.

He pulled them out of co-location. That resulted in the Customs people doing the same. I'm now given to believe that the U.S. Attorney is talking about putting those resources back in, co-locating them. Customs has also advised us that they would do likewise.

Hopefully, this will take place, so that that operation will not be disjointed and fragmented, and will operate successfully, as it has in the past.

So I assure the Chairman that I, too, will pursue that matter. And that certainly is the kind of operation that should be continued.

I would like to turn to Mr. Mahoney. As I indicated, when he talks about these figures, I didn't even want to publicly mention the figure. It's an estimate.

But I would suggest that probably the transmitters, both legal and having registered with the State, and illegal, have been used as a vehicle by which to move out billions of dollars of currency. This is not, as my colleague from Illinois has indicated, a problem

unique to New York, but would be one that is facilitated and used in all of our large urban centers where we have the ethnic populations, that we'll find this same phenomenon in Florida, as you have mentioned, in Illinois, in Chicago, and in all of the great urban centers where there are large numbers of people of ethnic diversity.

And this has and will be utilized. Getting down to that, Mr. Mahoney, you mentioned that you have in the State under Section 640, Article 13B of the Banking law, what you perceive to be an effective tool against the illegal transmitters, despite the penalty provision which you would think should be increased.

Could you describe for us what that is? And do you see a need, as some of my colleagues have suggested and I think they're absolutely right, for federal participation in this area?

Mr. MAHONEY. Senator, the penalty at the present time is a misdemeanor. Six months in jail and/or a $500 fine.

Senator D'AMATO. That's an invitation then.

Mr. MAHONEY. If you violate this section of the Banking law; 640 is the beginning of it. The applicable section is really 650, where the sentencing is introduced. But you have to be registered with the Superintendent of Banks, and you have to post a $500,000 bond in order to operate as a money transmitter in New York State.

Basically, we realize that the penalty is merely a slap on the wrist, but what it does is, if you're identifying an illegal money transmitter, it allows you to go in the front door. It allows you to seize the books and records. And once you get a look at the books and records, more than likely, you're going to come up with structured transactions. More than likely, you're going to see funds going out of the country to Panama, to Cali, to Medellin in Colombia.

Senator D'AMATO. Have you in some of your investigations—I recognize with limited resources, you do have undercover agents and investigators, but they're limited. They're not given nearly the fire power you once had when you were with the Bureau.

Is that fair?

Mr. MAHONEY. That's absolutely correct. There aren't enough of us to go around. And the State Police and the Attorney General's Office basically has the same problem. It's a problem of manpower and resources.

And in order to do the job properly, one of the things that really would be beneficial up front would be access to those IRS CTR tapes.

Senator D'AMATO. Yes.

Mr. MAHONEY. Extremely helpful.

Senator D'AMATO. Would you recommend that there be similar federal legislation as it relates to the registration of these money transmitting centers?

Mr. MAHONEY. I think it would be helpful. Hopefully, it would solve the problem of getting people who were going to operate illegally to become registered. We know right now that there are 135 in existence in New York State.

Senator D'AMATO. Illegal?

Mr. MAHONEY. As I indicated, I'm sure that the number will be much higher.

Senator D'AMATO. Those are areas that you have good suspicions. You're saying that there are others out there that you might not even have identified yet?

Mr. MAHONEY. That's correct, Senator.

Senator D'AMATO. Let me ask you if I might. You talk about having been able to follow transfers of money to Panama, to Cali, et cetera. Could you tell the Committee of some of those transactions you've identified and what kinds of dollars are we talking about?

Mr. MAHONEY. In one particular case, the first illegal money transmitter that we looked at, from the books and records, we saw at least 10–12 structured transactions—by structured, I mean under $10,000—going to Cali and to Medellin, Colombia.

And I believe, if my recollection is correct, they were all going to one individual in an apartment building. The amounts, you know, they were all slightly under ten, maybe $9,800, or something in that area.

Senator D'AMATO. So you're talking about $100,000 being moved from one of these little centers to a particular location in Cali?

Mr. MAHONEY. That's correct, Senator.

Senator D'AMATO. Mr. Chairman, I'd like to highlight this as one area that certainly deserves the attention of staff and the Committee to see what we can do to comprehensively complement the law enforcement efforts on the State level with the resources that we have at our disposal on the federal level.

Senator DIXON. Mr. Chairman, if I may, before we go on our second round, I feel compelled to make this comment. While I join my colleagues in their genuine concern about the testimony we heard here, I can readily see some jurisdictional problems in this.

The Chair will recall and my colleagues will recall that, in my State, we do have legislation concerning all kinds of check-cashing operations. And I would just point out that I think we ought to be concerned about the question of federal preemption here. And I think there's subject matter here that would require our attention about what the respective States do about this.

And without knowing more about it, I only make that observation. I see a problem out there. I don't know whether the solution is to simply say: The federal government preempts the field without carefully examining the question.

Senator KERRY. I think that's a fair comment, Senator Dixon. We have already begun a process of looking at this because it is clear that there is an enormous amount of abuse out there. And that if we're going to be serious about trying to restrict and create a real war on drugs, this is one of the open frontiers still where you could most injure them and where there is the least being done.

I sort of feel that Chairman Riegle has his finger right on the right button when he points to the fact that we have the technology. These transmittal people can't do what they do unless they go to a legitimate operating financial institution for the actual transfer of the money out of the country, or they can't do what they do unless they come to a legitimate financial institution to put it into play in this country.

So, no matter where you turn when you examine the channels here, you come back to the same place, which is the entry level

into the legitimate system. And you've got to rely on those legitimate entities to create accountability.

Now, we've got off-track betting. We've got all kinds of outlets that we license in this country where we have computer systems that record the transactions. If, in this age of information with our data base capacity, we don't have the ability—and it may take federal preemption to demand a system of accountability where, on a daily basis, you know what's coming in, then you can punch in and get your software and programs such that you've got the cross-checks built into it, so that you can see patterns of transferral and of deposit that tip you off as to what's happening, then something's wrong.

And I honestly don't think the States are going to be up to moving rapidly enough. So I agree with you, Mr. Chairman. I think we've got to sort it out. But I really think staff of this Committee and of the others that are working on this ought to join together and try to do it as soon as possible.

Chairman RIEGLE. If I could just respond to that, I'm sensitive to the point, too, that Senator Dixon makes, and that is we want the States involved in a partnership or cooperative arrangement. We have to be sensitive to that and we will be sensitive to that.

But I think this problem is so far advanced, the drug epidemic in this country, its size and the destructive force it's having—just take the homicide figures in any City in America, including the Capitol City, where we've just set a new record here, more than a person a day is being shot down on the streets of Washington, presumably, most of them connected to the drug traffic in one form or another.

The money side of this puzzle is really the key to it. We go after the supply side, the demand side, and so forth, but it's the transactional activity that holds this empire together. And I don't think we've done a sufficient job as a country in reaching in and grabbing that money network.

I think we do need a federal law here. It could be one in which the States, if they're willing to meet a very high standard using the most modern technology and they want to get out front and do this job, fine, I'm all for that. But it's a 50-State problem.

This money can move back and forth across the State border with ease. So I think we need a federal strategy and a federal way of capturing this activity. I think it's an emergency type situation.

I mean, we're in a war. It is, in effect, a drug war. And when you're doing that, I think it's possible with safeguards in at the same time to lay down a discipline where you put all the force of this government behind monitoring and tracking. And these kinds of financial flows and transactions.

And I think this would probably be the thing that would do the most to disrupt the drug business in this country of anything else that we could do. And this is something that we can do. We may want to get Mr. Bennett to come on by one of these days and talk about this because I know he's looking for avenues, and this is one where I think something can be done.

But I don't think it ought to take two or three years to do. I think this is the kind of thing where the President has set this out as a top national priority. If we can draft a legislative approach, we

ought to try to do it on a fast track and get something into place that really bites into this thing.

Senator DIXON. If I could make one further observation, Mr. Chairman, I thank the Chairman for his remarks. I do want to say that I agree in substance with most of it, and I want him to know that pursuant to the authority he gave me, I have indicated that we'll have a follow-up hearing with representatives from Treasury, Justice, the U.S. Customs Service and the IRS to follow along on this very thing.

Senator KERRY. Senator Graham, you've been very patient.

Senator GRAHAM. Thank you very much, Mr. Chairman. It's a fascinating testimony and questions and responses. I'd like to continue the theme of State/Federal cooperation using a couple of specific examples.

Mr. Lewis, you have mentioned in your statement that your office has been waiting in excess of 12 months for technical information associated with the new currency transaction reporting form. I assume that is the information from IRS that you've alluded to?

Mr. LEWIS. Yes, Senator, and all that is, is the form itself so we can program the computers on the magnetic tape recording.

Senator GRAHAM. Mr. Mahoney, have you had any better success in getting that form?

Mr. MAHONEY. We're basically not at that stage. We have a letter in the Treasury right now trying to reach an agreement with regard to the sharing of the information.

And I think the hang-up that we have is we're a regulatory type agency. We're not a law enforcement type agency. And because of that, I think the information probably will have to be turned over to the Attorney General's Office unless a State-enabling statute goes through similar to what California has in place.

We're probably, hopefully, six months to a year from the state that Florida is at right now.

Mr. LEWIS. Mr. Chairman, there may be some confusion. That, Senator, doesn't give us access to the information. We just want to be able to have the banks reporting their currency transactions by using magnetic tape and we're going to use the same form IRS is—in our opinion, it doesn't make any sense not to—and impose that kind of a burden on the banks.

We want to use the same form so that the banks can send the same information to both of us. But that doesn't get us the information.

Mr. Mahoney's problem we also have. I didn't even get into that. It's just another problem that I guess we've sort of learned to live with over the years. To get information from IRS so we can use that in any kind of action that we take, you have to go through a pretty detailed set of requirements from Treasury.

This is one thing that hasn't changed over the nine years. You must make written requests, specify exactly why you want it, and so forth. Address it to the Director of the Office of Financial Enforcement, and you will get an answer within six months. And it may be six months.

The answers we have uniformly gotten are: We can't give it to you, but, you know, six months later, it wouldn't matter anyway.

There's nothing we can do with that. That information is then stale. That may be a problem with the law. Again, this is one of those fights that we've sort of given up on. That's why we went to our own currency transaction reporting. The Memorandum of Understanding that Treasury has with California, I may have mentioned before you came in, is not something that would be totally satisfactory to us because it only provides for a one-way flow of information as we see it.

So, no, we are no further along than New York is on that. We just want to be able to start using magnetic tape reporting so we can do it faster, more efficiently. And we think that will benefit both the banking institutions and our office.

Senator GRAHAM. Mr. Chairman, I know that at a later date, we are going to have representatives of the federal agencies here to discuss many of these same issues from their perspective.

I'd like to ask if the two representatives from the States and possibly through your national organizations, you could solicit comments from your colleagues in other States to give us any questions that you'd like us to pursue with the federal regulators, or what you would consider to be some of the States' priorities in terms of enhanced cooperation to facilitate the accomplishment of our mutual goals relative to control of the use of the banking system in financial institutions for laundering money for elicit purposes.

If I could go to a second example of that cooperation, that is the issue of Operation Greenback.

Mr. Lewis, you indicate that you have determined this reduction and the resources for Operation Greenback

Was there any consultation with your office prior to that decision?

Mr. Lewis. No, sir.

Senator GRAHAM. How did you become aware of the reduction in Operation Greenback?

Mr. LEWIS. Just through our working with them. We were aware that they reduced the number of agents, that some agencies had pulled out their people altogether. And they told us what they had done. Again, at the operational level, at the field level, we've had excellent cooperation. I'm not sure if you were here when I said nine years ago I was testifying before the Senate Banking Committee.

And at that time, we literally were not told by Treasury that there was an Operation Greenback. We read about it in the papers. We asked about it and we were informed there was. We've gone light years since then and people in the field have been very good. And there's been a very good cooperative effort.

We think the operation is successful, but it doesn't take a genius to figure out that if you cut back to the extent they've done it, you're not going to have the same kind of success.

I might say that we can at last show some specific examples of success. We're always asked by the Florida Legislature: Show us the results of this Currency Transaction Reporting Law. And we've had to delay because these are not short investigations. They're labor-intensive and time-consuming. Our law has been in effect now for five years. It takes two to four years for these investigations to go through fruition.

We now have here just within the last month or so letters from the U.S. Department of Justice, DEA, telling us that our CTR information has been beneficial in the indictment of—and these are probably documented now, two letters—two separate indictments.

It's really a shot in the arm for us, and the kind of thing we can now take back to the Legislature and say this is useful, this is helping. It's helping the Department of Justice.

So it's sort of frustrating when you begin to see results. And, admittedly, these are just individual cases, but that's all we can do is take a bite-size chunk of the apple and see what we fear is a program going in the wrong direction.

Senator GRAHAM. Mr. Chairman, I see my time is up so I would like to conclude by asking for supplemental information.

Mr. Lewis, you alluded to the money-laundering symposium that was held October 26-28 in Coral Gables.

I'd be very interested if you could provide for the record any recommendations or conclusions that were the result of that symposium.

Mr. LEWIS. I'll do that, Senator.

[Information referred to follows:]

Recommendations and Conclusions

International Symposium on Money Laundering

1. Federal and state money laundering laws and regulations have given banks a substantial proportion of the compliance burden. Other industries should also accept their share of the responsibility, as the challenge confronts every segment of society.

2. In the past, many statutes and rules designed to combat money laundering may have been instituted without a complete understanding of the burden they could place on the financial community. Future statutes and rules will have to address increasingly complex transactions within the international payments system (i.e. wire transfers). The federal bodies responsible for drafting new initiatives to detect this type of money laundering should study the full effect of any proposed legislation. This can be accomplished by taking full advantage of the knowledge and expertise of the appropriate regulators, investigators, attorneys, and bankers. In drafting legislation, we need to be cognizant of the competitive position of our financial institutions within the international arena. To do otherwise could further impede the competitive position of U.S. banks within the international banking community.

3. After the currency transaction reporting requirement was instituted, drug traffickers apparently began to utilize the wire transfer system to launder their illegal profits. As state and federal governments initiate a wire transfer reporting system, traffickers may develop even more complex financial structures and transactions to avoid detection. At that time, it will be even more difficult to identify illegally obtained profits.

4. Given the high degree of influence that drug money can have the economies of certain foreign governments, only with extreme difficulty and unusual courage will the level of international cooperation and commitment necessary to impede the use of the payments system by traffickers ever be obtained.

5. In our efforts to combat money laundering we must be careful not to impede an institutions right to due process. For instance, the pretrial freezing of assets in the case of a criminal indictment can severely impact potentially innocent financial institutions.

Senator KERRY. Thank you very much, Senator Graham. I think that's a good suggestion and I appreciate that.

I might just ask you was it not true that there was one bank that announced they are no longer taking cash deposits at the symposium?

Mr. LEWIS. They may have, Mr. Chairman. But——

Senator KERRY. I'd understood that Barclay's Bank—oh, OK. Peter Fowler of Barclay's Bank said that there was one bank that was not, in fact, any longer taking cash deposits. I want to know how they function. I'm not sure.

Mr. LEWIS. I don't know either, but I'll check on it, Mr. Chairman.

Senator KERRY. Would you check on that and see if it's possible to get that statement to us? Perhaps you could inform us what bank that might be. I'm not sure if they'll be a bank much longer.

We are pressed obviously for time. There are other questions. What I think I'd better do, because we have two other panels to follow, is ask you both if you would be kind enough to submit perhaps the answers in writing to any questions that we might submit in addition. And I'll leave the record open so that you can do that.

[Information referred to follows:]

Information Concerning Florida Banks That Operate Without Cash

In response to a question from Senator Kerry, at least three international banking institutions in Florida operate with little or no cash on premise. One agency operates with no cash on hand. If a customer wants to cash a check, the agency exchanges the customer's check for the institution's own cashiers check, guarantees the customer's endorsement on the cashiers check, and directs the customer to a local commercial bank. The agency has an agreement with the commercial bank to accept and cash checks for the agency's customer. No cash is accepted for deposit from the agency's customers, except by licensed courier on behalf of a foreign country's central bank.

A second international agency also operates with no cash on the premises. In the event a customer wants to cash a check, the agency takes the customer's check, prepares a cashiers check, takes the cashiers check to a local commercial bank branch office located in the same building, cashes the check, brings the money back to the agency and disburses it to the customer. If the customer wants to deposit cash, the agency accepts cash giving the customer a receipt. The agency then fills out a deposit slip and immediately deposits the cash into their account at a local commercial bank. No cash is kept on hand for any length of time during the day or overnight.

A third international agency maintains very limited amounts of cash on hand. The agency's customers rarely visit the bank and even more rarely make cash deposits. At this particular institution, all cash transactions (i.e. cash deposits and cash withdrawals) require the express approval of the general manager or the operations manager.

Senator KERRY. I want to thank you both very much for traveling distances and coming to join us today. I think your testimony has been very helpful and I know we will want to continue to be in touch with you as we try to develop some kind of response to this problem.

I thank you very, very much.

I'd like to ask the members of the second panel to join us now and take their places.

Mr. John Lee, Executive Director of the New York Clearinghouse Association, Mr. Joseph Madison from Joseph Madison Associates in Lanesborough, Massachusetts, and Mr. Chuck Morley of the Morley Group in Arlington, Virginia.

My thanks to you gentlemen for your patience, and I also thank you for joining us today. We would adhere to the same summaries of testimony for a seven-minute period and then go into a round of questioning.

Mr. Lee, if you would begin, I would appreciate it. Thank you.

STATEMENT OF JOHN LEE, EXECUTIVE DIRECTOR, NEW YORK CLEARNING HOUSE ASSOCIATION, NEW YORK, NY

Mr. LEE. Good morning, Mr. Chairman. I am John Lee of the New York Clearinghouse in New York. I've submitted a statement. I'm really here to add to the fund of knowledge of this panel, as best I can, so that you can better fight this battle that we're all engaged in. My oral presentation will be very brief.

Large dollar wire transfers or, as they are sometimes called, inter-bank payments, can pass either through the Fed wire or through the Clearinghouse inter-bank payment system.

But, payment conventions adopted long ago by the world's large banks have put most of the international payments on CHIPS. Inter-bank payments evolved after World War II as a means of clearing dollars employed in commercial transactions throughout the world. Messages from customers, usually made by cable to the New York banks, enabled banks to draw official checks and give them to other New York banks for deposit to the accounts of designated customers.

The official checks were then exchanged through clerks on the floor of the New York Clearinghouse. In the early 1960s as the Eurodollar market began to develop, official checks were used to move them in and out of the United States. The number of checks exchanged ballooned. Their dollar denomination increased in size, and there came a point when we had to explore the possibility of automating the process.

After a period of study and experimentation, we constructed CHIPS, which combined computer processing with advanced methods of telecommunication. The system began operating in April 1970. It's functioned well since then. Volume increased dramatically, particularly with the collapse of the Bretton Woods agreement and with the onset of the currency free-floating period.

Foreign currency payments were found to be conveniently settled over CHIPS. We have 140 participants; a list of the participating banks is attached to the statement that I submitted.

Electronic advices now signify inter-bank payments which formerly passed by check and move through our central computer. We provide a safe conduit through which they flow and we provide net settlement in federal funds at the end of the day.

Our transmission format requires payment information to be sent in a rigid sequence; only by adherence to such specifications can the payments by computer be processed quickly and accurately and thereby meet the needs of the international community.

The electronic spaces in the CHIPS message are called fields. Each field is defined as a specified number of characters. You can see by the printout of our format, which is also attached to my statement, that the information is tailored to data necessary successfully to complete a payment.

Because all of our traffic is machine read, we do not emphasize the conveyance of other information. As a consequence, dollars moving through our system are identified only as to source and destination, although an originator can include reference material to tell how the payment should be applied.

Each evening after our system closes, we transmit by high-speed line a summary of all of our CHIPS transactions into the computer data base of the Federal Reserve System. From time to time, officials have sought to learn on a statistical basis why payments pass through our system.

The last study, done in 1988 by the New York Federal Reserve Bank, indicated that approximately 42 percent of the dollar amount of our payments are foreign exchange trades; 33 percent are Eurodollar placements and 25 percent are a combination of commercial settlements and miscellaneous transactions.

A copy of the relevant table from the Fed study is attached to my statement. The full study is available if needed.

Now let me turn to the specific question raised by this hearing:

Is our system used to launder elicit funds? If so, what steps can be taken to prevent it?

It's an obvious question and one which is and has been on our agenda. The Fed study gave no information that the kinds of payments going through CHIPS lend themselves to money laundering. Indeed, the size of the payments going through CHIPS lead observers to believe that they are consolidations of transactions for the most part. But we know that we cannot be complacent.

It is for that reason that we are particularly happy to be here today, Senator, to try to answer any questions or to add to the knowledge that you need.

We have had meetings with Assistant Secretary Martoche and his staff during the past month. Yesterday, we obtained a copy of his so-called Regulatory Options, published in the Federal Register. We're attempting to work with that Department to produce final regulations which will generate relevant information about suspicious transfers or patterns of behavior which might disclose money laundering transactions.

I think I will stop now and simply save as much time as I can for questions.

Thank you.

[The complete statement of John F. Lee follows:]

Testimony

of

John F. Lee
President
The New York Clearing House Association

before the

Subcommittee on
Consumer and Regulatory Affairs
of the Senate Banking Committee
United States Senate

Wednesday, November 1, 1989

The New York banks, following a pattern set in Europe, particularly by the London banks, organized a clearing house in 1853 to clear checks in New York City and to make settlement there. As Chairman Greenspan noted in a speech last June, the financial efficiencies effected then were as remarkable for their times as the electronic innovations of today.

Electronic funds transfer systems, which were basically developed in the 1960's and 1970's, have now replaced much of the manual check clearing mechanism that once engaged us. In New York City, electronic payments have evolved into two distinct forms: high volume, low denomination consumer payments, which we pass through our Automated Clearing House (ACH), and high denomination wholesale wire transfers which we accommodate through the Clearing House Interbank Payments System (CHIPS). Because of the needs and objectives of our users, these two systems differ. There are also differences between the two systems in the speed of processing afforded, the time of settlement and the kinds of risk controls in place.

The ACH network is very important in the domestic payments system, and we consider it to be our greatest potential market. While it is largely dominated by the Federal Reserve System, there are several privately owned ACH's which interconnect. Ours is the largest of them. ACH payments consist of preauthorized debits and credits which are handled and transmitted in bulk. You may

recognize these payments, for example, as automated payroll deposits (credits) or automated mortgage payments (debits). Corporate trade payments and corporate cash concentration debits also make up a substantial portion of the ACH traffic.

Large dollar wire transfers, or as they are sometimes called "interbank payments", can pass either through the FedWire or through CHIPS. Payment conventions, adopted by the world's largest banks, have put most international dollar payments on CHIPS. Interbank payments evolved after World War II in New York as a means of clearing U.S. dollars employed in commercial transactions throughout the world. Messages from customers, usually by cable to New York banks, would order the banks to draw official checks and give them to other New York banks for deposit to the accounts of designated customers. The official checks were "exchanged" through clerks on the floor of the New York Clearing House.

In the early 1960's, as the Eurodollar market began to develop, official checks were used to move those dollars in and out of the United States. The number of checks exchanged ballooned and their dollar denomination increased in size. There came a point when we had to explore the possibility of automating the process. After a period of study and experimentation, the New York Clearing House constructed CHIPS which combined computer processing with advanced methods of telecommunication. The system

began operating in April 1970 and has functioned well since then. Volume increased dramatically with the collapse of the Bretton Woods agreement and the onset of the current period of freely floating currencies. Foreign exchange payments, it was found, could be made conveniently over CHIPS.

CHIPS has 140 participants. A list of the participating banks is attached. Electronic advices, signifying interbank payments which formerly passed by official check, now move through our central computer. We provide a safe conduit through which they flow and we provide net settlement in federal funds at the end of the day.

Our format requires payment information to be transmitted in a rigid sequence. Only by adherence to such specifications can payments be computer processed quickly and accurately and thereby meet the needs of the international commercial community. The electronic "spaces" in a CHIPS message are called "fields". Each field is defined as a specified number of "characters". As you can see by the print-out of our format, attached, the required information is tailored to the data necessary successfully to complete a payment. Because all of our traffic is "machine read" we do not now attempt to convey other information. As a consequence, dollars moving through our system are unidentified except as to source and destination. Although an origination can include "reference material" to tell how the payment should be

applied, no required data tells us the purpose for which it is being made. Each evening, after our system closes, we transmit by high speed line a summary of all CHIPS payments for the day into the computer data base of the Federal Reserve System.

From time to time, we and the bank regulatory agencies, have sought to learn on a statistical basis the purposes for which the payments pass through our system. The purpose of these studies has been to improve operating efficiency and risk control. The last study, done in 1988 by the New York Federal Reserve Bank, revealed that approximately 42% of the dollar amount of our payments are foreign exchange trades, 33% are Eurodollar placements, and 25% are commercial, settlement and miscellaneous transactions. A copy of the relevant table from the Fed study is attached and the full study is available, if needed.

Let me now turn to the specific question raised by this hearing. "Is our system used to launder illicit funds and if so what steps can be taken to prevent it?" This is an obvious question and one which is, and has been, on our agenda. The Fed study gave no indication that the kinds of payments going through CHIPS lend themselves to money laundering transactions. Indeed, the size of the payments going through CHIPS lead observers to believe that they are consolidations of transactions for the most part. But, we know we cannot be complacent about the threat. We frequently discuss anti-money laundering activities at the

Clearing House. For example, in the last three months our Steering Committee and our Protection Committee have discussed this question each time they have met.

We are currently undertaking a project to alter our CHIPS format to allow more information to pass through the system. We are doing this in part to allow for information which will designate the purpose of a payment. We believe such information should be made available and we believe the regulatory authorities will want it. Yet, we also recognize that we have little capability to investigate or determine whether or not originators of payments truthfully supply such information. CHIPS payments are often linked. Each correspondent bank in a multi-institution chain becomes less able to know the purpose of a payment or even the originating party. Investigatory power, beyond that of which we are capable, will be required to verify the information we gather. Nevertheless, no recitation of the difficulty involved in obtaining accurate information should deter us from trying to get whatever is available, and it will not.

We have had meetings with Assistant Secretary of the Treasury, Salvatore Martoche and his staff during the past month relating to this matter. We are attempting to work together to help the Department produce regulations which will generate relevant information about suspicious transfers or patterns of behavior which might disclose money laundering transactions. We look forward to receiving any proposals that the Treasury may put forth.

CHIPS PARTICIPANTS

CHIPS ABA	NAME
001	Bank of New York
002	Chase Manhattan Bank, N.A.
008	Citibank, N.A.
012	Chemical Bank
023	Morgan Guaranty Trust Company
030	Manufacturers Hanover Trust Company
032	National Westminster Bank USA
103	Bankers Trust Company
104	The Commercial Bank of Kuwait SAK
108	Marine Midland Bank, N.A.
112	Northern Trust Int'l. Banking Corp.
132	Osterreichische Landerbank AK
148	European American Bank
159	American Express Bank Ltd.
184	Banco Bilbao Vizcaya, S.A.
217	The National Bank of Kuwait SAK
222*	Pittsburgh National Bank
234	Gulf International Bank, B.S.C.
249	Banca Nazionale Dell'Agricoltura
252	The Yasuda Trust & Banking Co., Ltd.
253	Bank of Nova Scotia
255	Canadian Imperial Bank of Commerce
256	Standard Chartered Bank
257	Barclays Bank PLC
262	Hongkong & Shanghai Banking Corporation
266	Banque Indosuez
274	National Westminster Bank PLC
279	Bank Leumi Trust Co. of N.Y.
285*	Fidelity Bank, N.A.
301	Westdeutsche Landesbank Girozentrale
303	Skandinaviska Enskilda Banken
309	French American Banking Corporation
322	Amro Bank
324	Toronto-Dominion Bank
326	Bank of China
343	Banesto Banking Corporation
344	Westpac Banking Corporation
355	Banco do Brasil S.A.
371	Den Danske Bank
378	Deutsche Bank AG
398	State Bank of Victoria
400	The Sumitomo Trust & Banking Co., Ltd.
404	Arab Banking Corporation
407*	Norwest Bank Minneapolis, N.A.
409	Royal Bank of Canada
415	Bancomer, S.N.C.
417	Banco Portugues do Atlantico
421	Nederlandsche Middenstandsbank, N.V.
422	Societe Generale
430	The Dai-Ichi Kangyo Bank, Ltd.
438	The Taiyo Kobe Bank, Ltd.
454	Provinsbanken A/S
458	Banco Real, S.A.
474	The Tokai Bank, Limited
480	Brown Brothers Harriman & Company
482	Republic National Bank of New York
487*	State Street Bank and Trust Company
495*	Mellon Bank N.A.
499	The Daiwa Bank Limited
505*	Bank of California, N.A.
509*	Philadelphia National Bank
531	Banca Commerciale Italiana
534	State Bank of New South Wales
540*	Bank of Hawaii
548	The National Bank of Canada
555	M & T Bank
561	Den norske Creditbank
566	Midland Bank plc
569	Privatbanken A/S
572	Arab Bank Limited

CHIPS ABA	NAME
581	DBS Bank
594	The National Commercial Bank
616	First American Bank of New York
711	United Overseas Bank
718	The Nippon Credit Bank, Ltd.
753*	Security Pacific National Bank
754	Hypo-Bank
764	Banco di Napoli
765	BHF-Bank
768	Banque Nationale De Paris
771	Banco Nacional de Mexico
772	National Australia Bank
773	Banco di Sicilia
776*	Harris Trust and Savings Bank
782	IBJ Schroder Bank & Trust Company
793*	First National Bank of Boston
799	Swiss Bank Corporation
804	Commerzbank AG
807	Credit Lyonnais
821	The Saitama Bank, Ltd.
824	Kredietbank NV
825*	Bank of New England, N.A.
830	Dresdner Bank AG
831	The Hokkaido Takushoku Bank, Ltd.
834	The Industrial Bank of Japan, Limited
841	UMB Bank and Trust Company
843	Union Bank of Switzerland
844	First Wachovia International Banking Corp
845	D. G. Bank
853	Credito Italiano
854*	NCNB National Bank of North Carolina
855	Banco de la Nacion Argentina
858	The Kyowa Bank, Ltd.
860	Banco do Estado de Sao Paulo, S.A.
861	Banco di Roma
862	The Mitsubishi Trust and Banking Corporat
863	The Mitsui Trust & Banking Co., Ltd.
865	CIC-Union Europeenne, Intl et Cie
869	Bangkok Bank Limited
870	Extebank
877	Korea Exchange Bank
880	Bayerische Vereinsbank AG
886	Bank Hapoalim B.M.
887	Banco Hispano Americano
889	The Long-Term Credit Bank of Japan, Ltd.
902	Commonwealth Bank of Australia
908	International Commercial Bank of China
914	State Bank of India
917	Credit Suisse
941	Bank of New Zealand
958	Algemene Bank Nederland, N.V.
959*	Bank of America, N.T. & S.A.
963	Bank of Tokyo, Limited
966	The Mitsubishi Bank, Ltd.
967	Sumitomo Bank, Limited
969	The Mitsui Bank Limited
970	The Fuji Bank, Limited
975*	First Interstate Bank of California
976	Israel Discount Bank of New York
979*	First National Bank of Chicago
980*	Continental Bank, N.A.
981	Banca Nazionale Del Lavoro
982	Sanwa Bank Limited
986	Banque Paribas
988	BfG:New York
989	Overseas Union Bank Ltd.
990	The Toyo Trust & Banking Co., Ltd.
991	Australia & New Zealand Bkg. Group Ltd.
992	Banque Francaise Du Commerce Ext.
994	Bank of Bermuda (New York) Ltd.

*CHIPS ABA is ABA Number of New York Edge Subsidiary (ABA Order)

6.04 LONG STRAIGHT THRU
TRANSACTION CODE: 13

This is input to CHIPS by a Participant.

FIELD #	FIELD NAME	SIZE	TYPE	NOTES/GLOSSARY REFERENCE
01	TRANSACTION CODE	2	N	See Transaction Code.
02	VALUE DATE	6	N	See Value Date. Must be the current CHIPS business day.
03	SEND PARTICIPANT NUMBER	3	N	See Send Participant Number.
04	SEND PARTICIPANT SUFFIX	1	N	See Send Participant Suffix.
05	RECEIVE PARTICIPANT NUMBER	3	N	See Receive Participant Number.
06	SEND ACCOUNT LOOKUP KEY	12	AN	See Send Account Lookup Key.
07	SEND ACCOUNT FLAG	1	DC	See Send Account Flag.
08	RECEIVE ACCOUNT LOOKUP KEY	12	AN	See Receive Account Lookup Key.
09	RECEIVE ACCOUNT FLAG	1	DC	See Receive Account Flag.
10	AMOUNT	12	N	See Amount.
11	FUNDS FLAG	1	DC	See Funds Flag.
12	PSN	6	N	See Payment Sequence Number.
13	SUSPECTED DUPLICATE FLAG	1	DC	See Suspected Duplicate Flag.
14	PID	10	AN	See Payment Identifier.
15	SWIFT#20	0-16	AN	See Swift#20.
16	Delimiter	1	DC	DC1
17	SWIFT#21	0-16	AN	See Swift#21.
18	Delimiter	1	DC	DC1
19	REFERENCE LINE 1	1-58	AN	See Reference Line 1.

6.04 LONG STRAIGHT THRU (cont'd)
TRANSACTION CODE: 13

PCN: 005
REVISED: 12/31/87

FIELD #	FIELD NAME	SIZE	TYPE	NOTES/GLOSSARY REFERENCE
20	Delimiter	1	DC	DC1
21	REFERENCE LINE 2	0-56	AN	See Reference Line 2.
22	Delimiter	1	DC	DC1
23	CABLE ADVICE CODE	1	A	See Cable Advice Code.
24	RECEIVE ACCOUNT NUMBER	12	N	See Receive Account Number.*
25	RECEIVE NAME AND ADDRESS LINE 1	0-38	AN	See Receive Account Name and Address Lines.*
26	Delimiter	1	DC	DC1
27	RECEIVE NAME AND ADDRESS LINE 2	0-38	AN	See Receive Account Name and Address Lines.*
28	Delimiter	1	DC	DC1
29	RECEIVE NAME AND ADDRESS LINE 3	0-38	AN	See Receive Account Name and Address Lines.*
30	Delimiter	1	DC	DC1
31	RECEIVE NAME AND ADDRESS LINE 4	0-38	AN	See Receive Account Name and Address Lines.*
32	Delimiter	1	DC	DC1
33	RECEIVE STANDING INSTRUCTIONS	0-8	AN	See Receive Standing Instructions.*
34	Delimiter	1	DC	DC1
35	SEND ACCOUNT NUMBER	12	N	See Send Account Number.
36	SEND NAME AND ADDRESS LINE 1	0-38	AN	See Send Account Name and Address Lines.
37	Delimiter	1	DC	DC1
38	SEND NAME AND ADDRESS LINE 2	0-38	AN	See Send Account Name and Address Lines.

*See Note on page 31.

6.04 LONG STRAIGHT THRU (cont'd)
TRANSACTION CODE: 13

PCN: 005
REVISED: 12/31/87

FIELD #	FIELD NAME	SIZE	TYPE	NOTES/GLOSSARY REFERENCE
39	Delimiter	1	DC	DC1
40	SEND NAME AND ADDRESS LINE 3	0-38	AN	See Send Account Name and Address Lines.
41	Delimiter	1	DC	DC1
42	SEND NAME AND ADDRESS LINE 4	0-38	AN	See Send Account Name and Address Lines.
43	Delimiter	1	DC	DC1
44	SEND STANDING INSTRUCTIONS	0-8	AN	See Send Standing Instructions.
45	Delimiter	1	DC	DC1

* Note: CHIPS software will no longer allow the entry of data in fields 24, 25, 27, 29, 31 and 33. This enables the receiving participant to use these fields for inserting name and address information.

Where no CHIPS look-up on the RECEIVE ACCOUNT is requested, (i.e. the payment is unqualified):

a) Receive Account Number (field 24), must be zero;

b) Receive Name and Address Line 1 (field 25),
Receive Name and Address Line 2 (field 27),
Receive Name and Address Line 3 (field 29),
Receive Name and Address Line 4 (field 31),
Receive Standing Instructions (field 33)
must be empty (zero length);

c) All "DC1" delimiters (fields 26, 28, 30, 32, 34)
must be present.

Should a payment be processed by CHIPS that does not adhere to the above specifications, CHIPS will "SYSTEM CANCEL" the payment with an "INVALID FORMAT" reason.

Table 4

Transactions by Survey Category By Wire System
($ Amounts in Millions)

Schedule/ Transactions Category	CHIPS No. of Trans-actions	%	CHIPS Dollar Amount	%	FEDWIRE No. of Trans-actions	%	FEDWIRE Dollar Amount	%
I. Securities Purchase/ Redemption/ Financing	32	1.2	930	1.7	990	32.6	27,717	24.8
II. Bank Loan	44	1.6	1,001	1.8	79	2.6	2,340	2.1
III. Federal Funds	10	0.4	146	0.3	888	29.2	39,709	35.5
IV. Commercial & Misc.	131	4.7	4,702	8.4	540	17.8	18,762	16.8
V. Settlement	130	4.7	7,140	12.8	228	7.5	11,735	10.5
VI. Eurodollar Placements	659	23.7	18,259	33.0	289	9.5	11,200	10.0
VII. Foreign Exchange	1,773	63.8	23,476	42.0	27	0.9	245	0.2
Totals	2,779	100.0	55,652	100.0	3,041	100.0	111,708	100.0

Senator KERRY. Thank you very much, Mr. Lee.

Why don't we just run down the line? Mr. MORELY.

Senator BOND. Mr. Chairman, before Mr. Morley speaks, I would just say that I looked at his biography and I regretted that it did not state the fact that he grew up in Mexico, Missouri. He and I grew up together. We looked a little different then. I would only say that Mexico, Missouri is not particular famous because Mr. Morley or I are from there, but it was the site of the homecoming for Miss America last Friday night.

And with that added qualification, we are delighted to have you with us.

STATEMENT OF CHUCK MORLEY, MORLEY GROUP, ARLINGTON, VA

Mr. MORELY. Thank you, Senator.

Senator BOND. She looks a little different, too.

Mr. MORELY. I certainly hope so. [Laughter.]

Mr. MORELY. I recall at the ripe-old age of six of being lost somewhere in your estate and my grandfather having to send out the police to find me.

Mr. Chairman, I would like to talk very quickly about money laundering. You have my statement, so I'm going to digress a little bit.

At the risk of stating the obvious, I'd like to briefly cover how money is laundered through the international system and how that relates to the use of wire transfers.

As you know, laundering is designed to erase the paper trail that normally exists in the banking industry. Cash of course leaves no paper trails so the bad guys use cash.

The Bank Secrecy Act on the other hand replaces cash with a paper trail that the government can follow. So, the Bank Secrecy Act becomes extremely important in the tracking of laundered funds.

Now, the normal system of money laundering as we've heard, consists of cash being moved into banks, other financial institutions or other entities and then generally being sent offshore. The cash goes offshore because offshore are secrecy havens where the funds can be laundered and transferred amongst the various havens to hide their identity, the purpose being of course to hide the true ownership or source of this money.

Those funds, once they go offshore, come back through the form of wire transfers into what look like legitimate, clean ownership of funds.

Let me give you a very quick example from one of our videos. In this example, a launderer creates a legitimate United States company. Let's say it's a real estate management firm.

The management firm manages real estate owned by "third parties." The bad guys take the currency, send it offshore, put it through a series of offshore havens, then bring the funds back into the United States as loans, or as funds that are used to buy real estate that the management company then manages.

The management company of course pays the bad guys a large salary, pays the perks, gives them houses, cars or whatever, and it all appears to be legitimate.

When the Feds come in and look at this situation, all they see are legitimate companies. They see everything fully documented. Here we have a typical laundering system where the bad guys have taken narcotics funds in the millions, run it offshore, and brought it back in a clean form. They're untouchable by the Feds unless they make mistakes, which of course they generally do.

I think the important thing to point out here is that everything looks legitimate. Nothing looks suspicious here. If you look at the wire transfers coming back from offshore, they are perfectly legitimate. They look like normal banking transactions and, in fact, they are normal banking transactions. And that's the dilemma we face.

Senator KERRY. Could you just add—as you explain that, can you add to what Mr. Lee said about the consolidated transactions? Are they more often than not consolidated?

Mr. MORELY. Yes. In my experience.

Senator KERRY. Can you distinguish?

Mr. MORELY. It's very difficult to distinguish. I'll get to that point in a minute because that's a very important point.

It is very difficult to figure out criteria to discern patterns of suspicious activities in wire transfers. Cash obviously is the real lynch pin in the system.

If we can get the cash, if we can stop the cash, identify the cash, we're going to be light years ahead of where we are today.

Now you might say, well, we've got the Bank Secrecy Act. We're already doing that. But my contention is we can do a better job. And, again, I'll talk about that in a minute.

I think it's very important to make the Bank Secrecy Act work. I'm not convinced that we're doing that. I was discouraged to hear about Greenback today. I was the IRS representative from the national office where Greenback was set up. And, obviously, Greenback has been very successful.

But I'm also discouraged to hear that the government itself is not able to handle the literal flood of information we are getting under the Bank Secrecy Act.

I'm wondering how they're going to be able to deal with the flood that we're going to get with suspicious transactions in the future as well.

I don't think they can. And I think that is really where we need to focus our activities, is to try and let the government use the tools they have today before we come in and implement additional regulations.

Let me continue here for a minute. Once this currency gets into the financial system, it, for all practical purposes, is gone. It is indistinguishable. Then you look at six trillion dollars a day that comes through wire transfers, and that's CHIPS alone, I don't believe that covers the domestic wire transfers—is that correct?

So, when we talk about a trillion dollars a day in wire transfers, we're not talking about Des Moines to Chicago. We're just talking about offshore. I have no idea what the domestic wire transfer system is. That's something that hasn't been addressed.

So the problem is that wire transfers are not like cash. Cash is not normally used in commerce. Large cash sticks out as an anomaly.

On the other hand, large wire transfers are the norm. So, the dilemma of the banking industry is:

How do you distinguish a normal transaction from a suspect transaction?

There are criteria you can use. They are not real definitive and they all hinge on one item. That is, you have to know your customer.

Suspicious transactions, let me put it this way, transactions only become suspicious in the context of what the institution knows about the customer.

Now, we throw this fact into the matrix. Can we devise a system like we have with CTRs, where the government can establish criteria that will allow us to pinpoint a sample of wire transfers? I think you can see the difficulties in doing that because, again, it depends on who the customer is. So the government will, in effect, have to construct a profile for every banking customer in the country and match that profile against any given wire transfer they may send or receive, and then use that to cull out suspicious wire transfers.

Once you have that, you have a universe of, quote, "suspect wire transfers."

But, what do you do with that?

That again becomes a whole other problem and we have to address that down the road.

Senator KERRY. Let me just interrupt you. We have a vote that's on. I'm going to run over to vote, but I'll leave Senator Bond here and I'll try to come back as fast as I can.

There may be a slight hiatus.

Mr. MORLEY. OK.

Let me give you some examples of these laundering systems as they work. I mentioned the fact that a person could have a real estate management firm. They could also have foreign investments in the market. They could have a foreign company investing these funds. In other words, they send the funds offshore. The foreign company brings the money back and invests on behalf of the bad guy who lives in the States.

We've seen that in insider trading cases. You can also construct the types of situations where you can see patterns in bank records. I just recently went through a Draconian exercise with a large multinational bank, which shall remain nameless, where we literally reviewed every account in the bank. Thousands of customers.

Tens of thousands of wire transfers, tens of thousands of other transactions. We did this because we were trying to make sure we didn't have any, "suspicious," customers within this financial institution. We also constructed an internal monitoring system that would attempt to prevent suspicious transactions from occurring in the future.

It was an extremely difficult task. Needless to say. We had certain criteria that we had devised to isolate transactions and we did, in fact, identify about a hundred transactions that we felt should be criminally referred to the Justice Department as a result.

But, my point is here we were with a team of maybe 20 CPAs and attorneys in all departments of this bank looking through every transaction. And it was unbelievably difficult to separate the wheat from the chafe. And we knew the customers in many cases. We knew the customers. We would have a foreign exchange, for instance. We would see millions of dollars coming on shore and going offshore through branches of this company.

But, when you look at that, you say is this drug money or is this legitimate money? How do you know the difference? We had a hard time coming up with the answer to that.

The other interesting point is this. With respect to this exercise we went through, we, being good corporate citizens, referred a number of suspicious transactions to the government. Now, granted, we were under some pressure to do that from other sources.

But, nonetheless, we made these referrals. As a result, the attorneys for this institution, the outside counsel, received a call from the U.S. Attorney's office. It was from a senior attorney who began to yell, if not scream at outside counsel, asking us what we thought we were doing by making all these criminal referrals. Was this some kind of obscene paper dump? Were we trying to flood the government with paper? And, in fact, he promised us that he was going to refer this incident, mind you, to the U.S. Attorney himself. And he was also going to refer it to the IRS.

Now I don't raise this point to defend this financial institution. I raise this point for another reason.

Based upon my experience with all the work I've done with the Banking Associations, I can state that the banking industry in this country is cooperating to a phenomenal degree. Granted, they had to be brought to this point by cases like the Bank of Boston case. Nonetheless, I think it's time, as you say, Senator, to start dangling some carrots out here in front of the financial institutions. I think it is time that we give them all the tools they need to cooperate in this problem of identifying money launderers.

The government is totally out-gunned here. I think there's no question about that. If we can bring the financial institution industry in as allies, make them agents without making them cops as it were, to give them the tools they need to help us, we will have added a tremendous asset to our war on drugs.

I don't think we need to badmouth them to threaten them. I think we need to bring them on board. And I think we need to do that by encouraging them and not by passing more regulations that may or may not be workable and that are going to cost them a fortune.

With that, I'll conclude.

[The complete statement of Chuck Marley follows:]

The
MORLEY
Group

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TESTIMONY OF CHUCK MORLEY
U.S. SENATE
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

The Bank Secrecy Act has been in effect since 1970. However, enforcement of the act was virtually non-existent until the Bank of Boston case was fully aired by Senator Roth in hearings before the Permanent Subcommittee on Investigations in 1985. CTR filings by financial institutions increased dramatically after the Bank of Boston case; from 700,000 in 1984 to an estimated 6.2 million in 1989. This fact demonstrates the lack of compliance before the Bank of Boston case, but it also dramatically demonstrates the high degree of compliance in the industry today. Other accumulated evidence convinces me that the banking industry is now fully committed to both and the letter and the spirit of full compliance with the Bank Secrecy Act. The easier we can make their job, the more effective our fight against money laundering will be.

Financial institutions are required to report certain large currency transactions under the currency reporting requirements of the Bank Secrecy Act. These types of transactions are generally easy to identify and report. The new geographic targeting regulations and the soon to be implemented bank check identification regulations will give the government additional powerful tools to track large currency transactions.

The government's arsenal has been significantly expanded with the passage of the Money Laundering Control Act of 1986 (MLCA). Now the government's search for dirty money has extended to non-currency transactions. This has created a dilemma for government officials and financial institutions, as many of these suspicious transactions look deceptively like legitimate banking transactions. This is especially true for suspicious wire transfers.

Bank regulators, enforcement officials and Congress are currently trying to devise a record keeping or reporting system that would help them detect suspicious wire transfers, using methods similar to the currency reporting requirements under the Bank Secrecy Act. I do not believe suspicious wire transfers can be isolated in this manner.

In today's banking world, large currency transactions are not common. According to the Treasury Department, currency transactions in excess of $10,000 totalled $25 billion in 1988. Even with this volume, large currency transactions are being isolated and analyzed for suspicious patterns.

Large wire transfers, on the other hand, are the norm rather than the exception. Compare the *annual* $25 billion in large currency transactions with the *daily* $1 trillion in total wire transfers. While many of these are large bank-to-bank wires, an incredible number of large, non-bank wire transfers enter the system daily. The logistical problems of capturing and reporting these transfers would be incredible, and for reasons explained below, the captured wire transfers would be of little assistance to law enforcement.

The dominance of wire transfers in the world's finances make it extremely difficult to construct a profile usable as an initial sorting devise for suspicious wires. In fact, the suspicious nature of wire transfers can *only* be determined in the context of the customer sending or receiving the wire. Thus, any wire transfer profile used by the government would have to factor in a customer profile as well. Given the scope of the use of wire transfers, and the diversity of customers who use them, this would be a draconian and extremely expensive task.

I have produced a series of training videos on money laundering for financial institutions. The fourth video in the *DIRTY MONEY* series, entitled *WHAT THE FEDS LOOK FOR (And How To Find It First)* explains and demonstrates ways to try to identify suspicious wire transfers, account activities, loan activities and cash transactions. Virtually every example we use hinges upon what is known about the customer. There just isn't any way around this problem, because suspicious transactions generally look like normal banking transactions *but for the fact* that they don't make sense in light of what is known about the customer.

Unfortunately the federal government has not been of much help here. Treasury has provided only limited guidance as to what constitutes a suspicious transaction. The Justice Department, which is the lead enforcement agency for the Money Laundering Control Act has made no apparent concerted effort to quantify what constitutes a suspicious, non-currency transaction. Nor has the government shared its views on how financial institutions can best "know their customers." In May, 1989, the American Bar Association's Money Laundering Subcommittee voiced their concerns regarding this lack of guidance in a letter to Assistant Attorney General Dennis. To date they have received no answer.

One suggested solution to the suspicious wire transfer dilemma has been the reporting of all wires over a threshold amount to or from certain haven countries. I don't believe this is a workable solution. First of all, the amount of funds wired through the haven countries is huge. The haven countries are major booking centers used by many of the world's banks for their customers' accounts.

Our research on the Permanent Subcommittee on Investigations clearly demonstrated to me that the vast majority of these bookings are totally legitimate. Thus a huge sample would have to be reviewed in order to find the isolated suspicious transaction. Determining which of these wires are suspicious would be virtually impossible without substantial additional information about *each* of the customers.

Secondly, we have already seen the bad guys change their laundering patterns in response to government regulations. Were we to track wires from selected secrecy havens, we could expect to see the bad guys simply shift their accounts to less visible countries. I therefore don't believe finding the dirty money needle in this multinational booking haystack would be practical or cost effective.

Staff has suggested that wire transfer documents contain the names and account numbers of both the customer who is sending the wire and the customer who is receiving the wire. This requirement would be designed to help financial institutions identify wires sent by known suspicious persons or groups. It is my experience that very few suspicious transactions surface as a result of knowing the sender's identity. In addition, government agents can readily trace wire transfers with or without the transmitting customer's identity. While this requirement would be helpful, the costs of implementation may far outweigh the benefits.

Requiring customer identification on wire transfers seems simple and straight forward, but it is not necessarily so. A multi-national bank client of mine recently imposed such a requirement on wires sent from its foreign branches through the U.S. They found the implementation of the new policy to be extremely complex, time consuming and expensive. I am concerned that the same would be true industry-wide.

It would be difficult to force foreign financial institutions to include the identity of the sending customer on all wire transfers. Yet the more problematic wire transfers originate in foreign countries. Imposing the requirements on U.S. institutions would thus add further regulations to the industry without solving the problem.

The identification of suspicious transactions is a multi-step process:

1. Financial institutions must have a corporate-wide commitment to reporting suspicious transactions.
2. They must have a thorough knowledge of every customer.
3. They must train their employees, system-wide, to recognize suspicious transactions.
4. They must have an internal system of reporting and analyzing suspicious transactions.
5. They must have internal controls and a review process to insure the system works.

The industry is well aware of these requirements, and many institutions have gone to great lengths to implement them. I think we can all agree that the Bank of Boston stick was required to get the industry properly committed to these efforts. I hope we can all agree that the stick is no longer necessary.

Banks are cooperating to such a degree that government sources admit they can't handle the work being generated. To further burden the industry with regulations under these circumstances would seem counter productive. I would recommend the opposite approach. Let's give the industry some carrots.

Reporting suspicious transactions is not simply a matter of checking the box on the new CTR form or preparing a Criminal Referral Form. The Right to Financial Privacy Act contains a tightly drawn exemption for bank reporting of suspicious transactions. Unfortunately that does not address the real problems faced by the industry.

How does a financial institution deal with reporting suspicious transactions by a customer who has significant credit lines at the bank? The bank risks violating the Money Laundering Control Act if it accepts any credit line payments from the customer after the suspicious transaction is discovered. Does it write off the customer's debt? Does it close the customer's accounts and credit lines? These actions could do irreparable harm to the customer and result in suits against the bank. These suits do not fall within the Right to Financial Privacy Act exemptions. The bank is left naked and unprotected.

The United Kingdom has adopted a straight forward solution to these problems. They grant financial institutions a safe harbor from criminal and civil prosecutions for all good faith referrals. The American Bar Association's Money Laundering Committee has developed a similar safe harbor proposal. I would urge the Congress, and the Administration to give this proposal their earnest and immediate consideration. I believe devoting our limited regulatory, enforcement and legislative resources to problems such as this will strengthen our allies in the banking industry and do far more to curb money laundering than will adding to the list of regulations.

We have made great strides since the Bank of Boston hearings, both within the banking industry and within the government. The banking industry is devoting tremendous resources to helping the government fight money laundering. This is not an industry that needs additional thrashing to get it on board.

I believe, as one who has seen this issue from all sides, that our best course of action at this time is to work together as a team to help the banking industry find the solutions to these problems. The industry is cooperating as never before, but they need all the help they can get. Let's give it to them.

Senator BOND [presiding]. Thank you very much, Mr. Morley.

Mr. Madison, rather than having you start and have me bolt and run, we will stand in recess until Senator Kerry or the other members of the Committee return. I thank you gentlemen and I ask your indulgence for just a few moments.

(Recess.)

Senator KERRY [presiding]. The hearing will come back to order. Thank you all for your patience. I know you've all heard the saying "You can't get there from here." That's just about how it is on the floor today. And in this particular hearing room.

Mr. Morley, I understand you finished your testimony.

Mr. MORLEY. Yes, Mr. Chairman.

Senator KERRY. Mr. Madison, I'm glad to welcome you, particularly coming down from the foliage in Massachusetts, and sharing a few moments with us. If you would just give us a little inch of background on your consultancy, and so forth, and then do your summary. Thank you.

STATEMENT OF JOSEPH MADISON, JOSEPH MADISON ASSOCIATES, INC., LANESBOROUGH, MA

Mr. MADISON. Mr. Chairman, my name is Joe Madison. I graduated from Annapolis in 1957, did 13 years in the military, mostly in the Intelligence Community. I left the military in 1970 and went to work for Citibank to look at the risks involved in the funds transfer processing. Worked for them for four years and then I've been an independent consultant pretty much since then.

So I have 19 years experience in this very small, and until recently, boring area of wire transfer. I'm not an expert in funds laundering. I know the networks and I know the network formats.

My points this morning are in two areas. One, I want to discuss the formats and standards used on the networks. Secondly, I want to say a few words about what it would take to analyze the data transmitted over the payment networks.

In this country, we use, as Mr. Lee pointed out, CHIPS and the Fed wire to execute payment instructions. Those are payment networks. We receive instructions to execute payments over SWIFT from banks worldwide, from Telex, mail telephone and so forth. So the instructions come to the banks in various ways to execute payments.

In the 1970s, payment processing was somewhat chaotic. One out of nine transactions by a large New York bank contained errors. There were errors in processing resulting in losses to the customer and the bank. The banks recognized the need to change the way of processing the funds transfer instructions to execute payments through CHIPS or Fed wire.

Originally, the instructions that came into the banks were in an unstructured format. They were conversational. They received a request from so-and-so from the account of such-and-such. That kind of format required interpretation by clerical personnel. So a lot of errors were made.

Starting in 1970, at Citibank, we developed a format that allowed the overseas customer to come in with structured instructions. These were instructions designed so that the computer could

read them and would process the orders of the customer automatically.

Since the 1970s, we've developed a number of different formats. If one standard was good, we said three must be even better. So the standards evolved starting, I think the first one was the MARTI format by Citibank; later, SWIFT; all the European banks throughout the world cooperated in developing the standard.

CHIPS originally was almost machine processable and it has improved over the years, until now it's more highly structured. When I say "structured", what I mean is that the parameters required to execute the transaction are presented electronically in a way that they can be recognized by the computer.

They are labeled, so to speak, so we use key words to label the key elements of the transaction.

In 1982, the ABA Committee published a series of key words. They developed a standard language between banks for how to specify the parameters of the transaction. Those key words have been adopted by CHIPS now in their current format and also by the Fed wire.

Now, where the three networks—CHIPS, SWIFT and Fed wire—differ is in the requirement for data about the business side of the transaction. That is, in SWIFT, to send an instruction to move money on behalf of a customer, or to send an instruction to credit a customer—and SWIFT's distinguishes between credit to a customer's account and a credit to a bank's account—that is, the customer transfer versus the bank transfer.

I have to pause for a minute here. In these proceedings, we've used the term CTR to mean Currency Transaction Report. The Fed, in specifying its format, used those same initials to mean Customer Transfer.

So, in our dialogue, there may be some confusion along those lines. SWIFT defined a customer transfer and defined the data elements or the fields that are required to be in the message in order for SWIFT to accept that message and send it to its destination.

So that if I were to send a customer transfer from Europe, I would have to name the beneficiary and name the originator. In the CHIPS format, and in the Fed format, that information is optional. That is, the parties involved in the transaction need not be identified by name.

In CHIPS, the practice certainly is to identify the sending account, the account debited by the sender, by identifier and name. It is not required, however, to identify in all cases the account to be credited by name, by the receiving participant. That's a recent change in CHIPS.

I can illustrate this if you'll bear with me on this viewgraph.

[Slide.]

Format Comparison for Parties in Customer Transfers

Party	SWIFT	CHIPS	FedWire
Originator	Required Name required	Optional	Optional
Originator Bank	Optional; Name required; I.D. optional	Optional Name and/or I.D.	Optional Name and/or I.D.
Intermediary Bank	Optional; Name required; I.D. optional	Optional Name and/or I.D.	Optional Name and/or I.D.
Beneficiary Bank	Required if Intermediary Bank used; Name required; I.D. optional	Required if Intermediary Bank used; Name and/or I.D.	Optional Name and/or I.D.
Beneficiary	Required Name required; I.D. Optional	Required Name and/or I.D.	Required Name and/or I.D.

This compares the three networks. In SWIFT, to send a customer transfer instruction to another bank in the world, you must put the name of the originator in that instruction. And if you look down at the bottom, you must also identify the beneficiary with a name and an identifier, which is optional. I can say Joe Madison, period, or put a slash and put his account number in here.

If someone overseas, a bank through the SWIFT network, attempts to enter a customer transfer and does not include the name of the originator or does not include the name of the beneficiary, SWIFT will reject the transaction and not send it on to its destination. That's an important difference.

In our U.S. Fed wire system, there is no requirement whatsoever to identify the originator of the transaction. The only requirement the Fed has is: to identify the sending bank that's on line with the Fed network.

So the originator or the party debited on the books of the Fed wire's sending bank is not required data on the Fed wire transfer.

On the receive side of the transaction, for a customer transfer over the Fed wire, obviously, you have to identify the beneficiary, so the beneficiary is required, but only his account number.

So, if we look at a comparison between those two networks, I have two more viewgraphs here to show you what the transfers look like.

[Slide.]

SWIFT Customer Transfer

30CITIUS33AXXX64201

30CITIGB2LAXXX09248

100 02

:20:AEX1786

:32A:891130USD1000000,

:50:JOSEPH MADISON ASSOC.

SILVER STREET

LANESBORO, MA

:57D://FW211871691

BERKSHIRE COUNTY SAVINGS BANK

PITTSFIELD, MA

:59:/22500357

JOSEPH MADISON ASSOC.

In this scenario, I've walked into Citibank, London and asked them to transfer a million dollars to my account in the Berkshire County Savings Bank. That's what the transaction would look like in order to be accepted by SWIFT. You can see I name, label myself; 50 means in SWIFT language the originating customer. Even though, by the way, that transaction may go through a number of banks, in this case, only one—or two. Excuse me—to get to my account. It's the practice of all the banks when given the originator's name to pass that through to the beneficiary. The beneficiary is indicated by field 59, which is the label meaning beneficiary in SWIFT language.

If I were to do a similar transaction over the Fed wire, it would look differently.

[Slide.]

FedWire Customer Transfer

2118716911000

267083763 1247 $1,000,000.000

ATL FED S & L FT LAUD

BERKSHIRE CTY/CTR/BNF=/AC-22500357

So this rather anonymous looking transaction, in this case, I walked into Atlantic—I think it's Bank Atlantic Federal Savings and Loan in Fort Lauderdale and ask them to transfer money to my account at Berkshire County Savings Bank. You see my name as the originator is not in there. And my name as the beneficiary. Only my account number at the Berkshire County Savings Bank.

Senator KERRY. That is under the Fed wire?

Mr. MADISON. This is under the Fed wire network. I'm not an expert on laundering and I don't know the techniques used, but it seems to me it's very easy within this format to disguise a transaction by not using any names whatsoever.

One of the recommendations that the banks that worked together over the years both through the SWIFT representation that we have in Brussels and the ABA has been an organization that facilitated development of ABA's standard key words in the formats used by CHIPS and Fed.

This format was developed under the auspices of the ABA. When this work was going on to develop formats and standards, certainly money laundering was not in the news. I think it's time that the Standards Committees review the formats and standards that are used by the networks to see how we can add to those standards to make the detection of laundering easier.

For example, we could add something called Business Purpose Codes to the Transaction. We could add possibly a way to provide an audit trail as the transaction flows from bank to bank. So that when it gets to its ultimate destination, we could pick up the transfer, look at it and understand everything that happened to it before. Or had the easy trace back to its origination.

That's all I have to say about standards and formats. I'd like to now just briefly address some of the things Chuck said about analysis of the data.

I'm not saying absolutely that we can look at the data in an automated sense and find suspicious transfers. I'm saying that we should try. We don't need to get new reports from the banks. We don't need to get new data if the Clearinghouse will give us the CHIPS database daily, if the Fed wire will give us its data and from each Federal Reserve District. It's a lot easier to collect the transactions processed over the Fed from 12 Federal Reserve Districts than it is from individual banks throughout the country.

Senator KERRY. What would that enable you to do assuming you got that?

Mr. MADISON. What I'm saying is I'm not saying whether the answers are there or whether we can detect the laundering there. I'm just saying there's a good chance we could do something.

For example, in Mexico, Missouri, there's only one bank, the 1st National Bank of Mexico, Missouri. If, all of a sudden, we found that for a bank of that asset size in a town with a population of 12,000, the dollar transfer volume was $200 million a month, that would cause us to raise an eyebrow and say why is that? Or, the Berkshire County Savings Bank does probably 10 wire transfers a month. If we can establish a profile not of the customers of the banks but of the banks themselves and look for unusual dollar volumes flowing into and out of those banks, it would be possible we could uncover something.

It would be also good to look for key phrases. In some of the messages I've seen over the years, you wonder when you see By Order Of the required field in SWIFT, the data in that field says "one of our customers" or XYZ. In other words, the sending bank from overseas has elected not to tell us the name of the originator of the transaction. That missing data in itself is a flag which should be investigated.

As I say, I know the networks and I know the formats. Recently I was made aware of the fact that Rand-McNally has a directory that can give us a profile of all the banks in the U.S. It has the population of the cities therein. So we can look for unusual flows of funds into and out of regions, states or banks in the country.

I think that the investigations of this data should be done centrally, not by the banks themselves. It doesn't seem very efficient to have all the banks in the country write logic for their computer systems to try to detect suspicious transfers. If we do that centrally, it would be much more effective.

This concludes my opening remarks.

[The complete statement of Joseph Madison follows:]

jma JOSEPH MADISON ASSOCIATES INC. BANK AUTOMATION SERVICES

FUNDS TRANSFER PROCESSING IN THE UNITED STATES

Testimony to
The United States Senate Committee
on
Banking, Housing, and Urban Affairs,
Subcommittee on Consumer and Regulatory Affairs

JOSEPH MADISON ASSOCIATES, INC.
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November 1, 1989

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Foreword

This document includes a summary of my observations and recommendations about the impact of the CHIPS and FedWire network formats on the laundering of money. The summary is followed by a tutorial on the Wire Transfer Processes that take place on SWIFT, Telex, CHIPS and FedWire.

The reader familiar with the payment and advising networks should skim to Sections 8 and 9 for specific recommendations and observations concerning money laundering.

CORPORATE PROFILE

Joseph Madison Associates (JMA) was established and incorporated in December, 1977. The business of the company is to provide consulting services in support of the development of electronic funds transfer and associated communication systems. The market consists of U.S. Regional Banks, money center banks and non-U.S. banks using the U.S. payment and advising networks.

The services performed by JMA range from analysis of a bank's business needs to assistance in funds transfer system development and implementation. The basic system architecture designed by JMA is in widespread use throughout the United States. Since JMA is frequently involved in the selection of vendors to provide its clients with funds transfer software products, the firm maintains objectivity by not engaging in software development. Exceptions to this policy are made when the development activity is either ancillary to the system processing electronic funds transfer instructions or is done to support analysis projects.

Joseph Madison is the sole owner of JMA, Inc. and principal provider of the firm's consulting services. Mr. Madison has over 18 years of experience in the electronics funds transfer business and is considered an expert in this field. On numerous occasions he has been retained as an expert witness in legal proceedings involving litigation of funds transfer-related disputes. In addition to Mr. Madison the firm employs supplementary help when the need arises. In order to maintain its reputation for providing high quality service, the firm only employs personnel having five or more years experience in bank operations or bank automation projects.

JMA has achieved and preserved its reputation by consistently recommending the conservative approach to design and implementation of funds transfer systems. The firm avoids the "quick fix" and instead believes that the solution to bank automation problems lies in the development of a solid long term development strategy.

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Joseph B.H. Madison

Mr. Madison is president of Joseph Madison Associates, Inc., a consulting firm specializing in the application of computer systems technology to bank operations. An acknowledged expert on all aspects of funds transfer, he is currently providing consulting services for a number of New York banks.

Mr. Madison's primary experience involves managing applications development and the implementation of computer systems used in electronic funds transfer.

Prior to establishing Joseph Madison Associates, Mr. Madison was Manager of Funds Transfer Products at TMI Systems Corporation, a consulting firm. The high demand for his consulting services rendered him a valuable asset to the company. He also contributed heavily to marketing and sales efforts.

As Vice-President and co-founder of Financial Transaction Services, Inc., (FTS), Mr. Madison developed the idea for and managed the implementation of a system to convert transactions prepared in the format developed by the Society for Worldwide Interbank Financial Telecommunications (SWIFT) to a format compatible with the New York Clearing House Interbank Payment System (CHIPS). He also specified the development of a capability to retrieve account identifiers based on the entry of a bank name. FTS is now a division of the Interactive Data Corporation, a Chase Subsidiary, and the ideas developed by Mr. Madison are producing revenue.

Mr. Madison was hired in June 1970 by Transaction Technology, Inc. (TTI) to examine privacy and security problems associated with electronic funds transfer. There, he devised the concept for and managed the implementation of the CITIBANK Machine Readable Telegraphic Input System (MARTI). The system, the first of its kind, allowed correspondent banks and branches to move money without manual intervention.

Mr. Madison is a 1957 graduate of the United States Naval Academy and received his Master of Science degree in electrical engineering in 1966 from the University of Arizona.

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1.0 Summary

1.1 Identify the Beneficiary and Originator by Name.

A pre-requisite for automated analysis of wire transfer transactions is that the originator and beneficiary - the beginning and end of the flow of funds - always be identified by name and optionally further identified by account number.

SWIFT, an international network used to transmit payment orders requires identification of both the originator and beneficiary by name. If the sending bank attempts to omit this information SWIFT rejects the message.

CHIPS, the New York Clearing House operated payment networks requires identification of the party debited by the sending CHIPS participant and has provisions for optional identification of the originator. CHIPS until recently, encouraged identification of the beneficiary by both name and account number. They have recently changed the original philosophy and hold the receiving CHIPS participant harmless for for processing transactions identifying the beneficiary by account number only.

FedWire, the U.S. Payment Network, allows entry of a customer transfer without including the name of the beneficiary or the

originator. The format does provide for this information but its use is optional.

Recommendation

Both CHIPS and Fed shoudl require the banks using their networks to identify the originator and beneficiary by name. Transactions not containing this data should be rejected by the network. Procedures should be developed to handel legitimate exceptions to this rule.

1.2 Analyze the Data

Business conducted over the wire transfer networks is repetitive. I once did a computer study for a major U.S. bank's international area for a month and found that although a group of banks did about 70,000 transactions during this period. They only did 11,000 different things, i.e., 11,000 payment scenarios were used to execute 70,000 payments. It may be possible to analyze the data to look for changes in the patterns. It may also be possible to find other evidence of laundering although I believe it will be difficult.

Instead of just focusing on transaction data, we may be better off trying to establish a wire transfer profile for each U.S. Bank. The profile would be based on region, nature of business and assets. Establish the typical customer transfer dollar volume

for banks having the same profile. We could then perform more detailed analysis of actual transaction volume.

Recommendation

1. Define and initiate a pilot study to determine what we can expect to get by a recurring automated analysis of the data.

2. If the study indicates that analysis will yield results, analyze the data centrally. It is far more efficient to do this than to have each bank develop their own computer logic.

3. Obtain the data from FedWire, CHIPS and SWIFT. Again, it is far more efficient to obtain data on magnetic tape from three sources than from individual banks throughout the country.

1.4 Do More Analysis

I don't know what technical analysis has been done to date. Those of us who know the wire transfer business should get together in lock-up sessions - not public forums - and identify all of the ways to networks could be used to "launder" funds. Then, perhaps we could define techniques to make the laundering task more difficult.

2.0 ELECTRONIC FUNDS TRANSFER OVERVIEW

2.1 Much has been written about Electronic Funds Transfer Systems ("EFTS") as used by individuals in a retail environment. Retail EFTS and the supporting communications networks are characterized by a very high transaction volume and a relatively small dollar volume. The circumstances giving rise to these proceedings involve the transfer of funds between international banks and their corporate customers and individuals a wholesale funds transfer. Compared to the more familiar retail EFTS transactions, wholesale transactions are much fewer in number (although there are still millions per per day) and much larger in amount. Wholesale transactions involve institutions such as banks, large corporations and national governments. Until recently, networks and computer systems supporting this type of activity have been given little attention in the media and for this reason it is appropriate to include a general description of the environment in which such transactions take place.

2.2 Prior to the 1970's, funds transfer instructions between banks were sent primarily over international and domestic telex networks and most transaction processing by the sending and receiving banks was done manually. Typically, the use of computers was invoked only to effect the accounting entries,

produce statements and mail advices.

2.3 The telexed instructions were unstructured, that is, there was no standard way to indicate the parties to the payment, the amount, the currency, the value date etc. For this reason, it was not possible to process transactions from start to finish without having an operator reading and interpreting the instructions of the remitter.

2.4 The wholesale funds transfer environment in the early 1970's was chaotic. Processing required a tremendous amount of paper handling by a large staff. Errors in interpretation by clerical personnel, due to language problems and lack of standardization, were commonplace.

2.5 Over the last 19 years the funds transfer environment has changed significantly. There has been a steady evolution of standards relating to communication networks and automated systems which support the banking community. Some of the highlights of this increase in sophistication are as follows:

2.5.1 U.S. FedWire is a payment network operated by the U.S. Federal Reserve System. It evolved from a teletype terminal-based system to a direct link computer-based system. The low volume user is now able to connect and use more sophisticated

terminals to send and receive payment messages. The high volume banks have computer-to-compputer communication links. The original FedWire format did not make provision for structuring the data for automatic processing by the Receiving Bank. After several alterations, the FedWire format now uses the standard key-words developed by the American Bankers Association ("ABA").

2.5.2 CHIPS was implemented in early 1970. It is a method of electronic funds transfer which has served the New York Banking community well in dramatically reducing the large volume of cheque exchanges of the 1960's. CHIPS Participants (i.e. banks sending and receiving CHIPS messages) now electronically transfer funds on behalf of their customers with relative ease. Here again, standards have evolved from an unstructured reference field (i.e. information in a format which does not allow for automatic processing and which is not presented in a standard way) containing instructions for onward movement of funds, to a computer-processable format using the ABA standard key words.

CHIPS like FedWire is a payment network. When a CHIPS Participant releases messages to CHIPS, accounting takes place immediately within the CHIPS computer to cause the account of the CHIPS Sending Participant to be debited and the account of the Receiving Participant to be credited. SWIFT, which I will describe in paragraph 3 of my report, does not, as a network, make payments but rather conveys a message requesting a payment from one bank to another. The SWIFT Receiving bank may or may not act on the instruction to effect the payment. Its decision to act depends on funds availability, authentication results and other factors. Since a SWIFT message contains the business parameters of the transaction labeled in a way that can be processed by a computer, many U.S. Banks automatically convert an instruction to pay received via SWIFT into a CHIPS or FedWare payment without interpretation by clerical personnel. Today, roughly 50 percent of SWIFT funds transfer messages received by New York banks are processed in this manner.

2.5.3 SWIFT became operational in the late 1970's. The SWIFT network links banks worldwide with a secure, telecommunications network for the exchange of

financial transactions. SWIFT has developed a highly structured format for use in conveying funds transfer instructions, as well as other bank business information. These formats for the exchanges of information and instructions are referred to as the SWIFT Standards. All banks which use the SWIFT network are bound by these Standards. Failure to comply with the Standards in formatting a SWIFT message results in SWIFT rejecting the message. In addition to using standard currency codes, country codes and data formats, the SWIFT Standards permit Sending Banks to structure messages so that they can be processed by the Receiving Bank's computer system without manual intervention.

2.5.4 Private Networks have been developed by major banks in response to customers' cash management needs. These networks link a bank with its correspondent banks and corporate customers. Services such as the Bankers Trust Cash Connector, Morgan's MARS, Chase's Current Day Reporter, Chemical Bank's CHEMLINK and First National Bank of Chicago's FirstCash, allow direct entry of funds transfer instructions by corporate customers and correspondent banks. In

addition, the cash management services operated by certain banks provide a daily report of customer account activity.

3.0 SWIFT Network and Format

3.1 SWIFT is a communications network owned by international banks. It was developed and put into operation in the late 1970's and provides reliable and secure data communications between participating banks worldwide. Perhaps equally important as the communicaiton facility SWIFT provides, are the message Standards and authentication techniques which SWIFT has developed and which enable banks unambiguously to convey the of business sense of financial transactions and the authority for their execution.

Funds Transfer Category

3.2 SWIFT defines two categories of messages used for funds transfer, namely Customer Transfer and Bank Transfer. The Customer Transfer is designated Message Type 100 ("MT100") and is used for the transfer of funds when either the originator or beneficiary is not a bank. The second category of messages, Bank Transfer, is used for the transfer of funds between banks. While there are several message types used for bank-to-bank transfers, they are all easily distinguished from the Customer Transfer (MT100) since bank-to-bank message types always start with the number 2.

3.3 It should be noted that the security and authentication features incorporated within the SWIFT network are the same for both categories of message.

SWIFT Message Components

3.4 I will briefly describe the characteristics of the SWIFT funds transfer Standards. The components of a SWIFT message are as follows:

3.4.1 Message Header - this information identifies the sender and receiver of the message as well as the time, date and sequence number of input of the message to SWIFT by the Sending Bank and the order of output by SWIFT to the Receiving Bank.

The location of the SWIFT address (identifier) of the Sender and Receiver in the header changes. A copy of the message on input to SWIFT by the Sender contains the Sender's address on the first line and the intended destination on line 3, SWIFT in producing the output copy to be sent to the destination address rearranges the header. The output copy as received by the SWIFT Receiving Bank will contain the receiver's address on the first line followed by the Sender's address on line 2.

3.4.2 Message Text - the message text conveys the business sense of the message and comprises fields and field delimiters which I describe in more detail in paragraphs 3.5 and 3.6 below.

3.4.3 Trailer - the trailer includes the message authenticator and other codes related to the transmission. The authenticator is always in a specific place in the trailer.

The results of the authentication process as determined by the Receiving Bank are appended to the trailer.

Fields and Field Delimiters

3.5 The text of a SWIFT message uses numbers to identify the parameters of the transaction. These numbers are called "field delimiters". A field is a place in a record that is designated to contain specific data.

A field delimiter, in effect, is a label naming the data that follows. A second delimiter indicates where the data in one field ends and the next field begins. Some field delimiters are followed by a letter used to designate the format of the data within the field.

SWIFT Message Text

3.6 SWIFT specifies which field delimiters (numbers) are to be used for each category of message. The parties involved in transaction are identified by numbers in the 50's. For example, 50 means the Ordering Customer or originator of the transaction. I use originator as an example because in the past there has been confusion concerning the meaning of the labels used to describe the various parties involved in a funds transfer transaction: does remitter mean the party who instructed the Receiving bank to pay or does it mean the bank prior to the bank instructing the Receiving Bank?, or does it mean the "ultimate" source of funds? The banks have agreed that new standards will use the term "originator" to designate the ultimate source of funds and SWIFT agrees that in a customer transfer field 50 will contain the identity of the originator.

SWIFT Standards further specify the use of computer-readable identifiers to identify the parties involved. The techniques used are as follows:

3.6.1 SWIFT Address or Bank Identification Code (BIC): This is a standard code used by SWIFT which is published in a directory listing all SWIFT Members

as well as non-SWIFT members who have requested their Bank Identification Code in the SWIFT Directory. If used, it requires entry of the letter A as part of the field delimiter. For example, ":57A:CRLYUS33" means that the "Account With" Bank (denoted by the number 57) is Credit Lyonnais, New York (denoted by the letter A following the number 57 and the SWIFT Address "CRLYUS33"). The "Account With" Bank is the bank designated in the SWIFT Sta[illegible] the bank to pay the Beneficiary Cust[illegible] a customer transfer (MT100) or Beneficiary Bank in a Bank to Bank transfer (MT202).

3.6.2 Account Number: If the account number of a party involved in the payment is known to the preparer of a SWIFT message, the letter D is used following a field delimiter. This is then followed by a / and the account number. If the / and account number appear as specified in the SWIFT Standards, SWIFT requires that the name and address corresponding to the account be entered on the lines immediately following the account number. The beneficiary field of an MT100, a Customer Transfer does not permit the entry of the letter D. The use of / is, however,

pecified and again precedes the account number of the beneficiary. Like other fields, if the / is used, name and address information relating to the associated account number must follow.

4.0 The Use of Telex for International Funds Transfers

4.1 SWIFT is the preferred method of communicating funds transfer instructions between banks. Banks generally use telex as a means of communications under the following circumstances:

(a) The SWIFT network or the bank's access to it is inoperable.

(b) The location of the computer terminal used for entry or release of a SWIFT message is remote from the office desiring to send the message. In this case the telex network would be used to relay the transaction to a location at which access to SWIFT would be provided.

(c) The sending bank is not a member of SWIFT and was therefore not entitled to use the SWIFT network.

4.2 Telex differs from SWIFT in two important respects. First, while there are prescribed standards for conveying the business sense of funds transfer instructions, their use is optional. Instructions are usually conveyed in an unstructured or conversational way. Unstructured Telex instructions cannot for the most part be processed by computer. Clerical personnel are required to read and interpret telex instructions for subsequent entry into a

computer system for execution. SWIFT instructions, on the other hand, are structured in a way to allow complete execution without assistance by clerical personnel. Such processing is called "straight through" processing and is now commonplace. The second area where telex differs from SWIFT is in the area of security. SWIFT messages use an "authentication" to guarantee the legitimacy of the transaction while telex messages use a testkey for this purpose.

5.0 ABA Funds Transfer Format

The banks learned from SWIFT. The SWIFT Standards provide the banks as means to increase back office efficienty and reduce errors of interpretation. Under the auspices of the ABA, U.S. Banks developed their own set of standards for specifying the parameters of a transaction. In 1982 the ABA Funds Transfer Terms and Usage Task Force published a document defining key words or labels to be used in the funds transfer processing. The keywords were used to further structure some of the data in SWIFT Standard. They also form the basis for the funds transfer standards subsequently implemented and used on CHIPS and FedWire. I will describe the use of relevant keywords in CHIPS and FedWire, in Section's 6 and 7.

6.0 CHIPS Format

6.1 Format Prior to June 1983

CHIPS used a combination of techniques to identify the various parameters of a transaction. Prior to June of 1983, the following parties were delimited in CHIPS in a way that could be processed by a computer.

(1) The Sending CHIPS Participant, called the Send Bank was always identified by a 3 digit number called the CHIPS Participant Number. This data is always present in a CHIPS message.

(2) The account debited by the CHIPS Participant called the Send Account. This data includes a field containing one of the following: SWIFT address; CHIPS Universal Identifier account number, account number. In addition, the data includes the name of the account as retrieved from the CHIPS database or the if not on the database the data furnished by the Send Bank. The data is not always present, since some of the transactions are originated by the Sending Participant itself i.e. the Send Bank is the originator.

(3) The Receiving CHIPS Participant, called the Receive

Bank, is identified in the same way as the Send Bank.

(4) The account to be credited at the Receiving Bank is called the Receive Account. For qualified transactions (Receive Account is on the CHIPS database), the Receive Account is identified using one of the same identifier that I described for the Send Account. For unqualified transactions, the Receive Account was identified in the Reference area of the message as unformatted text. The Receive account data was then and is still optional.

(5) Other parties such as the originator and parties to be credited by the Receive Account were all identified using free text in the reference area of the message.

6.2 Use of ABA Standard Keyword

CHIPS has made a number of changes to its format since 1983. The changes follow the guidelines of the ABA standards published in 1982. The CHIPS format now includes delimiters for all parties to transaction. These delimiters are listed and briefly defined in Figure 6.2-1.

Identification of Parties in a CHIPS Transaction

(parties are listed in the order of funds flow)

Field Tag	Meaning	Comments
ORG	Originator or earliest party known in the transaction.	1. Use is optional. 2. It is standard practice to always forward this information if available
OGB	Originator Bank. The bank instructed by the originator to move the funds.	Optional; not frequently used.
INS	The bank instructing the CHIPS Participant to make the transfer.	Optional; not frequently used.
Send Account	The CHIPS Participant's customer.	Optional; usually present
Send Bank	The sending CHIPS Participant.	Always present.
Receive Bank	The Receiving CHIPS Participant.	Always present.
Receive Account	The account credited by the Receiving Participant	
IBK	Intermediary Bank	The Bank to be credited by the Receive Account. Provisions are made for the IBK, BBK, and BNF to be identified by an account number or SWIFT address as well as a name. An account number without a name is allowed.

Figure 6.2-1

Field Tag	Meaning	Comments
BBK	Beneficiary's Bank	The Bank that credits the account of the Beneficiary's required field if IBK is present.
BNF	Beneficiary	The last party in the flow of funds required field of BBK is present.

Figure 6.2-1 (continued)

There are a number of technical problems with the CHIPS format that will be corrected by a new format scheduled for implementation in 1991. My non-technical objection to the current CHIPS format is that it allows identification of the Intermediary Bank, Beneficiary Bank and Beneficiary of a Customer Transfer by account number only.

The relevant point to these proceedings is that the task of analysis and detection of laundry transactions is made more difficult since it is impractical to obtain and maintain account numbers on a worldwide basis. My recommendation for changing this are included in Section 8 of my report.

7.0 FedWire Format

7.1 Background

Prior to 1987 the FedWire made no distinction between customer transfers and other funds transfer messages. In addition, the only data concerning the parties involved in the processing of a transaction was the identity of the sending and Receiving FedWire member. In November, 1986 the Board of Governors of the Federal Reserve System approved a policy to require the use of a structured format. The format was phased in over a number of years and became fully implemented in April of this year.

7.2 Structure

The customer transfer is now indicated by a code, /CTR/ in the message. If the code is present then the data must be formatted in accordance with prescribed rules. The format uses the ABA Standard keywords. The keywords identifying parties in the FedWire format are briefly described in Figure 7.2-1.

Identification of Parties in a FedWire Message

(parties are listed in the order prescribed by the Fed)

Field	Meaning	Comments
ORG	Originator or earliest Party known in the transaction.	Use is optional in FedWire.
OGB	Originator Bank. The Bank instructed by the originator to move the funds.	Use is optional in FedWire.
Fed Sending Bank	The bank connected to the FedWire network that sends the message.	Identified by name and ABA number.
Fed Receiving Bank	The bank connection to the FedWire network that receives the message.	Same as Fed Sending Bank.
IBK	Intermediary Bank. The Bank to be credited by the Bank receiving the FedWire message.	Optional. Subfields for inclusion of machine processable identifiers is specified. Identifier code without name is allowed.
BBK	Beneficiary's Bank. The Bank that credits the account of the beneficiary.	Required if IBK is used. Include account I.D. subfield. Account I.D. only is allowed.
BNF	Beneficiary. The last party in the flow of funds.	Required if BBK is present. Subfield for inclusion of identifier is specified. Identifier code without name is allowed.
INS	The institution that instructs the sender to execute the transaction.	Use is optional.

Figure 7.2-1

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7.3 Deficiency in the FedWire Format.

Like CHIPS, the FedWire structure favors the use of computer processable identifiers rather than names to identify the parties to the transaction. Parties to the transaction may be identified by number only and no name.

In addition, there is no requirement for the message to include the party debited by the FedWire Sending Bank (unlike CHIPS) or the originator of the transaction. My recommendations for correcting this are included in Section 8 of this report.

8.0 Elimination of Anonymous Transfers on CHIPS and FedWire

8.1 Name/Number Issue

There has been an increasing tendency on the part of a number of larger U.S. Banks to rely on numbers to identify the parties to the transaction rather than names. Their reasoning is that numbers are easier to process and allow them to process transactions without manual intervention. If a format, such as SWIFT, requires both a name and a number, the processing bank potentially assumes some liability if they process the transaction based on the number without verifying that the name and number identify the same party. To reduce their liability, the banks are attempting to make the name optional and/or legislate to make the message sender liable for processing errors if the number and name don't identify the same party.

8.2 Tighter Rules for FedWire and CHIPS

As discussed in Sections 6 and 7 of my report, the CHIPS and FedWire formats have provisions for including both the name of the Beneficiary and an identifying number. They also allow for the identification of the originator by name. The shortcomings of the two networks is that the originator and beneficiary name data are optional. That

is unlike SWIFT, a transaction can be sent over CHIPS and FedWire in which the originator is not identified at all and the beneficiary is identified by account number only. I suggest that for customer transfers:

(1) The FedWire incorporate edits, to always require an ORG (originator field) and that the field must contain at least 5 non-numeric characters. Similarly, the BNF (beneficiary) field must always contain a name subfield with at least 5 characters. If transactions fail these edits, they should be rejected by FedWire and not sent to the receiving FedWire bank.

(2) CHIPS should incorporate similar edits for presence of the beneficiary name subfield for transfer to non-banks (use of N as specified in CHIPS Administrative Procedure 9). It is not practical to require the presence of an ORG field in CHIPS customer transfer since the originator is sometimes the account debited by the Sending Participant. In this case, the originator is identified by a different field in CHIPS. Possibly, CHIPS procedures could be

amplified to require the banks to always pass on the name of the earliest party known to them in either the Send Account Field or the ORG field.

Neither of the changes I am proposing should require the banks to change their current system software (although changes could be made to detect violation of the edit rules before transmission to CHIPS or FedWire). Changes are required in the networks themselves. It is my belief that such changes are relatively minor and could be implemented in less than 90 days.

9.0 Money Laundering-Analysis Techniques

I am not experienced in analysis of the payment and advising networks from the standpoint of how they can be used to send the anonymous transfers required to hide the ownership of the money from law enforcement agencies. My comments and suggestions at this point are preliminary. Broadly speaking there are a number of things that could be done ranging from simply omitting the name of the originator as shown in the sample FedWire message (Figure 9-1) to other more subtle techniques.

An example of a subtle technique is shown in the Telex included as Figure 9-2. The Telex resulted a SWIFT message to a U.S. Bank, the execution of a CHIPS payment and the crediting of a non-U.S. Bank for one of its customers. The name of the beneficiary is not mentioned in the Telex, the SWIFT message or the CHIPS payment.

It would be inappropriate for me to detail the more subtle techniques in a public forum such as this since it would assist its money launderer in his task. Presumably some investigation has taken place by others and at least some of the general techniques used by the money launderers are known. The question remains - can the movement of funds by the money launderer's be detected by analysis of the data? Intuition tells me that we can

find some cases of laundering but that many cases will go undetected from analysis of the data alone. Data analysis coupled with information obtained from other sources (e.g. suspect shell companies) will probably provide the best results. Another question that must be considered is what do we do when we find suspect transfers using the data? It may be better to let them continue in order to find more links in the chain.

9.1 Who should do the analysis?

I feel strongly that the analysis should be performed centrally using data furnished by FedWire, CHIPS and, if possible, SWIFT. It is not practical to ask all banks in the U.S. to furnish magnetic tapes of their transactions or to write the computer logic to detect suspect items. In addition, analysis performed by individual banks will not be able to link the payment to the instruction while central analysis will usually have all of the pieces.

9.2 Will analysis of the data yield anything?

I don't know at this point. It makes sense to me to define and implement a limited computer study of the data before establishing regulations and procedures for an ongoing effort. Some of the things that could be identified are:

(1) Number of customer transfers processed in the U.S. daily. My guess is that there is a manageable number less than 100,000 per day.

(2) Transfers that are anonymous on one end or the other. These are identifiable by the absence of data in certain fields or the presence of certain phrases ("one of our customers").

(3) Determine the average ratio of wire transfer dollar volume to asset size of bank. Identify banks exceeding the average and find out why Bank asset data is available in a computer processable form from Rand McNally.

(4) Examine the feasibility of establishing and monitoring payment patterns between originator and beneficiary.

My guess is that, given adequate resources, such a study could be completed in 90 to 120 days.

Senator KERRY. Thank you very much.

Mr. Morley, I sense you wanted to react. Let me ask you if you can fairly quickly. And then I want to push on.

Mr. MORLEY. Thank you. I understand the concept of what we're trying to do here, but let's just take Mexico, Missouri. Mexico, Missouri has two very large refractory plants. It also is the central distribution point for Brookstone. Now who would know that?

Very few people would know that because it's a small town. I'm not sure how you're going to take this mass of data and quantify it. Not only do we now have to know the customer, we now have to know the City, the industries within the City, or the region, the industries within the region.

This really creates problems in my mind because I think we have a lot of tools right now that we're not using. I'm not sure whose going to use these additional tools if we give them to the government.

We talked, for instance, earlier, if I can just focus on Senator Riegle's point, we talked about check-cashers, unlicensed check-cashers and the need for additional federal legislation.

We already have federal regulations that speak directly to the points made by the last panel. If the government could analyze the CTR data base and look for large anomalous currency transactions going into a bank on behalf of these, "front companies", they would see these anomalies. They would see the travel agency that has put $16 million into the bank in the last week and they would say what is this travel agency?

The government has a direct route to those things right now. We don't need any more federal regulations in that area. What we need are the resources to look at that data and analyze that data at this point.

That's what I think we need to emphasize.

Senator KERRY. When you say to analyze the data, whose data?

Mr. MORLEY. In that particular example, the CTR data base. If a Casa de Cambio puts money into a financial institution the financial institution would file CTRs on that.

Senator KERRY. Let me come at this a little bit with you because what I sense you're doing is drawing a conclusion based on the current system's demands. In other words, you are sitting there and saying we have consolidated transactions and we can't tell whose money it is. Therefore, that's really being transmitted. We've got a block of money, $500 million. There may be $10 million of drug money in it, maybe 400 and whatever million of legitimate business transactions.

So how do you draw that out?

Now you're saying, therefore, it isn't going to do us any good to really analyze or have some restriction on the current wire transfer system.

Am I stating your position correctly?

Mr. MORLEY. I'm saying that the problem is that wire transfers only become suspicious in the context of the customer.

Senator KERRY. I agree with that. But, currently, we have a system that only requires the provision of information that stops short in many cases, as we've heard, of identifying the customer or

providing you with a data base that permits you to somehow track patterns of activity of particular customers.

Mr. MORLEY. That's right.

Senator KERRY. So the problem is not in whether or not you can set up a system that can track. The problem is— I'm not phrasing this very well—the problem is not a sort of fixed restraint on our ability to track. It's a restraint that we've placed in the system by virtue of what we are currently demanding in terms of information from foreign wire transfers.

Mr. MORLEY. OK.

Senator KERRY. For instance, let me be more specific. You've got the Stock Exchange where on a daily basis you may have 75,000 trades, 175 million whatever shares trading hands. You've got a customer pattern that is daily monitored for inside trader violations and manipulation of stock trade, and so forth.

That system is up and running because they've set up a structure through a data base that permits them to track variations and trends.

If foreign banks through the wire transfer process were feeding into a similar data base here about sources, because, hopefully, you set up a pattern of knowing your customer well enough, you could begin to isolate patterns of transactional behavior that were variants from a norm, could you not?

Mr. MORLEY. There are certain norms you could look at. They again hinge upon knowing your customer. But, for example, if the small-town banker in my hometown, if they have a retail store as a customer and the store received wire transfers from the Bank of New York which originated at Credit Suisse, which originated in Central or South America, that only becomes relevant when you look at the customer in Mexico, Missouri and understand that that wire came from all these different places, from someone in Central America.

And the bank, knowing its customer in Mexico, Missouri might be able to say:

Why is Higgin's Clothiers getting a $150,000 wire transfer from Juan Echevarria in Brazil?

That might help. Again, the bank would have to look at it in kind of a microcosm.

Senator KERRY. What some of us have been trying to get at here is that we're operating within a fairly frustrating structure right now. But it is made all the more frustrating by the lack of any effort in some countries or in some institutions to know their customer.

Mr. MORLEY. I agree with that.

Senator KERRY. And the only means we have of demanding some accountability for their behavior is their access to our system, their ability to move American dollars through the American currency structure.

Is that accurate?

Mr. MORLEY. I think that's the case.

Senator KERRY. Unless we had some other leverage which we now have in the form of foreign aid or whatever.

Mr. MORLEY. It's a very difficult question.

Senator KERRY. But the most immediate direct ability to impact what we're getting at here on this panel about the flow of money, the profits of what drug dealers have, is to affect their ability to move that cash. The only way we can affect their ability to move that cash offshore is to have the cooperation of offshore institutions because if they can flagrantly violate the know your customer concept, I would probably agree with you. No amount of sophisticated programming and data base is going to allow us to do anything that's very significant.

You might stumble on to something once every six months, but you're really not going to have an impact.

Mr. MORLEY. I think, we should give the banking industry the tools they need—by that, I mean a lot of federal cooperation. I would like to see the banking industry be able to work with us.

We've been addressing this issue for several years. We don't really have a long track record. And I think the banking industry is doing a phenomenal job. Let's give them guidance as to what suspicious transactions look like. Maybe we can give them guidelines on what know your customer really means.

And let's see what they can do with that. Now, I grant you, there's a real sense of urgency here.

Senator KERRY. But, as we heard from Mr. Lewis, the problem now is in the surreptitious back-channel transaction. The problem is not in Joe Blow walking in and sitting down at a desk with somebody and saying I want to open an account and I want to deposit this. This is not the problem now.

Mr. MORLEY. The problem is the jewelry store that puts a million dollars today in a bank in Los Angeles, as we have recently seen. That bank picked up the phone and said, "Is anyone over there looking at CTRs?" And that was a case——

Senator KERRY. Well, that comes to a question of spontaneous accountability and sort of the responsibility of the people working within the bank itself. And I keep coming back, I suspect we could probably fairly rapidly marshal the ability internally. But, as we well know, a lot of this money is going offshore.

Now, a lot of it is moving to Canada, a nice, friendly, terrific ally just across the border. And they don't have the currency reporting requirements that we do.

I again keep coming back to the notion that you've got to have some leverage for uniformity of application of the standards of knowing your customer and accountability.

And, for instance, let's be blunt about it. If you have sufficient tracking systems in these other countries, the Swiss banker or the Brazilian banker or whoever it is, sits there and he's got a wire transfer request that comes through his institution to send it up to New York for $500 million, and he can separate what the conglomerate is that made up that 500, he's going to have the ability, is he not, to say whoa, I can account for 450 of this from businesses I've done business with for 15 years, and I know the president and so forth, but I can't account for this 10. Let's take a look at that.

That would change the whole complexion of this, wouldn't it?

Mr. MORLEY. I believe it would, yes. Just from looking at our own bank clients, when they go through that process, they can to some degree isolate the wheat from the chafe. If we do that on a macro-

level, I think that would be worthwhile. I don't think it's going to be easy and I think we're going to have to really work on doing it in a cost beneficial way.

Senator KERRY. Now, isn't it accurate, and maybe, Mr. Madison, you can comment on this, isn't it accurate that the current instructions, field information, that the fields are divided up into now, in some cases will stop a transaction from taking place if the information isn't there and in other cases, it will not? Correct?

Mr. MADISON. That's true.

Senator KERRY. Therefore, why can we not have a requirement that you can't transfer consolidated transactions? They must be individually accounted for or they will not be cleared?

Mr. MORLEY. I don't know what the overall ramifications would be of that in the banking industry. Presumably, if banks would use SWIFT, they could do it. I assume that SWIFT is a very large market. And if they are already doing it with SWIFT, I suppose it's not that difficult. I'm not qualified to answer that.

Senator KERRY. Can you comment on that, Mr. Lee?

Mr. LEE. I don't know that you could break down consolidations that easily. They usually pass through two and three banks. And it's going to be very difficult to require that information to be passed along.

Senator KERRY. Help me to understand that, why is it so difficult to require that. You're talking about information that could be transferred in milliseconds. It really isn't going to slow down——

Mr. LEE. It isn't that you can't ask the questions. It's a question of whether you can check the answers.

Senator KERRY. That's where the data base comes in. Presumably, you are operating with people who are bona fide financial institutions, anxious also to protect their reputation as well as to prevent drug trafficking. And not even just drug trafficking. Illegal transactions. That's not the only cash transaction, as we know.

Mr. LEE. Each transaction, normally flowing through, his with it the name of the sender, the name of the sending bank, the name of the receiving bank and the name of the beneficiary.

Are you talking about information other than that? Are you asking qualitative questions? For example, what was the derivation of this payment? You can ask that but I'm not sure we could get the right answer.

Senator KERRY. Let me just check on something. Didn't you say that it doesn't require the beneficiary now?

Mr. MADISON. Right now in the SWIFT format, there is a field for beneficiary.

Senator KERRY. But it's optional?

Mr. MADISON. No, it's mandatory. It would only be identified by an account number, so you can't usually recognize it. Since most of the CHIPS traffic comes to the banks, instructions to make a CHIPS payment come to the bank via SWIFT. And since SWIFT has these constraints to require that the originator of a customer transfer be named, then the banks dutifully forward this originator information through CHIPS.

I would think the ones we would want to look at are the transactions that don't include an originator, that do pass through CHIPS.

That would be a sign of a suspicious transfer, an item that goes through CHIPS, its origin with SWIFT, and for some reason or other, if somebody, the originator was obscured in some way, that would be one of the flags that I am talking about to try and find some of these suspicious transactions.

Senator KERRY. Okay. Well, I would, I mean, my instinct is that that ought to be able to be pinpointed.

Now, Mr. Lee, every evening, you transmit by high-speed line a summary of all the CHIPS payments for that day, right?

Mr. LEE. That's correct.

Senator KERRY. Those go into the computer data base of the Federal Reserve.

Mr. LEE. That's right.

Senator KERRY. Now, the Fed is not really interested in a detailed breakdown, per se. What they're really looking for is information relative to the safety and soundness of the system.

Mr. LEE. That's right. They have a different job. The information they have is used for their purposes, but I suggest it could be used for other purposes as well.

Senator KERRY. That's exactly right. The point is that you've developed an automated system which summarizes key trends, transmits data, and that analysis is done each day.

Isn't it possible then to imagine the concept where you have CHIPS computers sorting through the transactions at the end of each day, developing summary transaction data that could be forward, say, to the Treasury Department's financial crimes network for analysis?

Mr. LEE. We could do that if we had some education as to what would be an indication of suspicion. We have, as I mentioned to Mr. Lebatan and he accurately reported it in the Times, about 83 percent of our transactions that are what we call qualified transactions every day. That means that all of this data is included in the format as it moves through. About 17 percent of our transactions every day are what we call unqualified transactions, where there's a piece of it missing.

It is clear that we could sort through that 17 percent and if we had some criteria to judge, we might be able to effectively give the Treasury some information they could use. We are perfectly willing to do that, but we need some information and some education as to what they are looking for.

Senator KERRY. Now, again, it shouldn't be that difficult, should it, to isolate those banks in certain areas which we suspect or know or have cause to believe are involved in significant money laundering transactions.

And if we had an agreement, obviously, this requires significant international cooperation. And this is what I've been saying for the past two years.

If you don't begin to put that together, this is all doomed. But, the point is that you could isolate if you had this requirement that, in order to repatriate these dollars, you've got to have accountability as to origin and beneficiary and the primary origin, i.e, if it goes bank to bank to bank, you still go back to the primary origin.

And then you've got an ability to flag key banks, flag key companies, begin to draw the law enforcement data base, which simply

doesn't exist today. We are operating absolutely in the Dark Ages on this.

Mr. LEE. I want to make sure that this panel understands that with respect to CHIPS and CHIPS participants, a new law isn't required. No extra-territoriality need be enacted to effect control over CHIPS participants, because our own rules require that they have a New York regulated presence.

They are in New York now and they are regulated in New York, so no new law is required.

Senator KERRY. Well, let me comment on that because Mr. Madison in his testimony recommended that both CHIPS and Fed wire ought to identify the originator and beneficiary of transactions by name.

You've expressed doubts about that. Treasury appears to have endorsed that in its rulemaking.

Mr. LEE. We encourage the use of names. And as everyone knows, most of our transactions have a name in them. But, when it comes to distinguishing for accuracy purposes whether the number controls or the name, we use the number.

But we can trace the number into a name; that's no problem.

Senator KERRY. So you support the Treasury rule that now requires that?

Mr. LEE. Absolutely.

Senator KERRY. Let me come back.

Did you want to comment on that, Mr. Madison?

Mr. MADISON. I have to disagree that you can trace the number into a name because, from your perception, Mr. Lee, what happens in many of the transfers and the ones we want to look most closely at is not those that credit the account of the CHIPS receiving participant and it stops there.

Those people have universal identifiers, have accounts that are known by the New York bank and are probably not so much of a problem. CHIPS now has provisions to identify parties past that point.

So, if we are crediting Bankers Trust Company for the account of Deutschebank, that's clean. No problem. But, if also in that same message, it says BNF equals account number 78543, that's the account in Deutschebank that needs to be credited ultimately. That probably should be named, and that is not required today, that it be named.

So you understand that one step past your customer, you have to get the Deutschebank to trace that.

Mr. LEE. Any number that is identified with a name has a record where it can be translated into a name.

Mr. MADISON. If you go to Deutschebank, that's true.

Mr. LEE. Of course, but Deutschebank is a regulated institution in New York City.

Mr. MADISON. I'm talking about Deutschebank in Dusseldorf.

Mr. LEE. Deutschebank in Dusseldorf has a branch in New York, and it is Deutschebank in Dusseldorf that has signed our agreement. They have to comply if there is some regulation.

Mr. MADISON. I understand. But, what I'm saying is, in order to do the investigation of that item, if we look at this from an auto-

mated standpoint, we have to know the account numbers of all entities all over the world.

You see what I'm saying? We have good records and easy access through your data base of the account numbers of the customers that are CHIPS participants, but it's their customers we don't have the account numbers on. So it won't stand out.

To see Joseph Madison Associates, account numbers are all different numbers. If my name is there, you can say all this money is flowing to this guy. So an automated analysis across banks would give you the ability to see such an anonymous transfer.

Mr. LEE. I don't think there's any hope in analyzing this much data, that every single transaction has to be eyeballed. There's no hope. You cannot do this bulk by eyeballing it. And I think what you're suggesting is that you have to actually physically look at it.

Senator KERRY. No, he's not. I don't understand that at all. I simply think it has to be capable of being data processed through a system that has the ability to flag what the program chooses to flag. And he is saying, if I interpret it correctly, that there is not now sufficient data being provided to permit that flagging to either make sense or to be efficient.

Mr. LEE. With respect to qualified CHIPS payments, it is my understanding, and I think I can assure you that every number can be traced to a name.

Mr. MADISON. Absolutely. I agree with that.

Senator KERRY. Let me come to the question, and you raised this issue of extra-territoriality, what would happen if you were to say to any entity seeking to clear through CHIPS:

If you don't adhere to the following provisions of information, no clearance?

Mr. LEE. We can do that. But, I expect that we would develop rather rapidly a lot of offshore clearing arrangements.

Senator KERRY. Now let's pursue that. If the offshore clearing arrangements, can they clear offshore without passing somehow through?

Mr. LEE. They can pass the net transactions through CHIPS or Fed wire. And the new Fed proposal, the Federal Reserve statement issued on May 31st, which is now out for comment, would require any offshore clearing arrangement which ultimately settles net transactions through the Fed wire or through CHIPS to adhere to certain operating criteria so that there is in motion at least a regulatory structure that would bring those offshore clearing mechanisms to heel.

It's not in place yet.

Senator KERRY. It could be. There's no way for an offshore clearing operation to work basically without access to the process.

Mr. LEE. If you're talking about dollars.

Senator KERRY. I am talking about dollars.

Mr. LEE. I also suggest to you that dollars are not the only currency in the world.

Senator KERRY. Of course they're not the only currency in the world.

Mr. LEE. That's the currency that is now used as the reserve currency. But, this kind of regulation might cause offshore clearing arrangements in other currencies. For example, CHAPS in London.

Senator KERRY. Is it feasible from a banking perspective for the small denominations of U.S. bills to depart from this country through the various smuggling forms that they do and avoid accountability somehow for the way in which they've got to come back in some process in the balance of trade payments process?

Can you not track that?

Mr. LEE. I could conceive how that could be done, surely, and probably it is being done.

Senator KERRY. Are you suggesting to me—I want to try to understand this—are you suggesting to me that if there was some kind of offshore process created or other currencies were used, that there is a way to buy sufficient drugs to meet the American habit in dollars? And never have those dollars repatriated as dollars, per se? They would come back in other currencies or other forms of drug traffic?

Mr. LEE. They could be converted to other——

Senator KERRY. And then dollars would come back in some other form ultimately through legitimate businesses elsewhere?

Mr. LEE. The Japanese, for example, are now operating an inter-bank yen system. We wonder, and I think a lot of people wonder, if that's the basis for some kind of an inter-bank payment system in yen in Tokyo. The Japanese government gives no indication yet that they want the yen to be a reserve currency. But it's certainly a machine or mechanism for that.

Senator KERRY. Can that volume of dollars, and people have been talking about a hundred plus billion dollars in drug trafficking that just goes out of here in terms of the laundering effort, that's outside of what gets transacted here and never gets laundered, can that kind of bulk of dollar bills find its way into a legitimate transaction sufficient to launder them without coming back into our transaction in sort of bulk dollar wire transfer form?

Mr. LEE. It's hard for me to say never, but I think that, in the present arrangement, those dollars do find their way back into the United States. And they are settled in the United States.

I don't know what happens to the actual bills, but certainly the value of those $20 bills and $50 bills is somehow now put into the banking system and is brought back in through the Fed wire, or through CHIPS, and ultimately settled in federal funds in the United States.

Mr. MORLEY. Can I comment on that, Mr. Chairman?

Senator KERRY. Yes. Let me just say we're going to run into some time problems because we have the impeachment proceedings and we're not allowed to meet beyond a certain time. So we're going to have to follow this.

Mr. MORLEY. We addressed that issue in the Permanent Subcommittee on Investigation under Chairman Roth. And we determined that back in 1985, we could see blips. One of them was in Panama. Since that time, my understanding is that those blips have dissolved.

I'm talking about the actual greenbacks coming back into this country, they have apparently dissolved throughout the world and these blips aren't really showing up.

The other thing I wanted to comment on very quickly is the real world of laundering. Let's assume I as a money launderer, as a nar-

cotics trafficker, have five companies in the Caribbean. I park money in these various companies and I occasionally use these companies to buy real estate or whatever in the United States. These companies are absolutely legitimate companies that are owned by other people. The ownership can never be traced to me.

If you see the wire transfers that come in from these companies, what you see are totally legitimate transactions that have no suspicious earmarks whatsoever. The government finds them through hindsight. But it would be very difficult to try and devise a system that would identify these wires as suspicious. Are we willing to say that *x%* of the real estate that's owned by these haven countries are automatically suspicious.

Senator KERRY. It relies on your intelligence. I mean, there's no question that information is only going to be helpful to the degree that people know how to put it to use.

Mr. MORLEY. And you have to pierce a lot of secrets to do that. That's the bottom line, because our hypothetical Antilles Advisory Real Estate Company, is owned by a Cayman company, which is owned by a Bahamian company which is owned by a Panamanian company. The attorneys in Panama show up as the owners of record. And nobody knows that I own the company. Nobody knows that except my attorney who is covered by Bank Secrecy and his attorney-client privilege.

Senator KERRY. I understand that, but to the degree that these are helpful, and I don't view them as a panacea, but they are certainly a major tool to permit law enforcement providing there are cooperative efforts, to be able to exchange information as we did in the pizza case, where you wound up with information coming from Italy, information coming from Switzerland—and I can't remember the third country. Mexico or somewhere—all of which came together in order to provide the prosecution.

Now, with recent passage of the AMLAC, hopefully, that exchange of information and law enforcement information is going to be more significant.

What we are really talking about here is doing away with barriers to law enforcement's ability to be able to do that.

Mr. MORLEY. I agree with that. I think we've got to give them the resources to do it. If we can get those two things together, I think we're going to be way ahead of things.

Senator KERRY. Gentlemen, I thank you. There are additional questions, a number of them. We will submit them in writing, if we may, because I do want to follow up on this.

Mr. LEE. By the way, Senator, I have tried to extend this invitation in the past, but you and your staff are perfectly welcome to come up and see our system and get an explanation of how it works.

Senator KERRY. I thought we'd been up there, but I'm sure they will.

Mr. LEE. Come up for a free lunch.

Senator KERRY. We're not allowed to do that any more. Hasn't anybody told you there ain't no more free lunch, especially in Congress?

Thank you, gentlemen.

[Information to be furnished.]

Senator KERRY. Can I ask the last panel to come forward, please?

Welcome to Boris Melnikoff of the American Bankers Association, Mr. Don Sargent, President and CEO of American Commerce National Bank, testifying for the Independent Bankers Association; and Jerome Gagerman of the National Check Cashers Association.

Mr. Sargent, I gather you are trying to catch a flight, so we will take you first so we can get you out of here to catch your flight.

STATEMENT OF L. DON SARGENT, PRESIDENT AND CEO, AMERICAN COMMERCE NATIONAL BANK, REPRESENTING THE INDEPENDENT BANKERS ASSOCIATION OF AMERICA, ANAHEIM, CA

Mr. SARGENT. Mr. Chairman, members of the Subcommittee, such as they are, my name is L. Don Sargent, President and CEO of American Commerce National Bank in Anaheim, California. I'm appearing this afternoon on behalf of the Independent Bankers Association of America.

The IBAA is the only national trade association that exclusively represents the interests of our nation's community banks. I appreciate the opportunity to discuss some of the serious concerns community bankers have about money laundering. Halting the money laundering operations of organized crime and drug traffickers is a laudable goal and one that community bankers strongly support.

Mr. Chairman, we recognize that money laundering problem is of course part and parcel of the drug use crisis our nation faces. Community bankers are already involved in the fight on several levels.

For instance, for the past three years, my bank has sponsored an anti-drug program for elementary school students based upon the former Administration's, "Just Say No" Crusade.

On the national level, I am proud to say that the IBAA has adopted a new program called Bank On Prevention, designed to help deter abuse of drugs and alcohol and thus to preserve the future of America's communities.

The Independent Bankers Association is deeply concerned, however, about the increasing regulatory burden associated with the Bank Secrecy Act. Let me illustrate this concern for you with my personal experience about what is happening in California and how some of its banks are responding.

For the past four years, I have been affiliated with two Los Angeles area banks. From early 1986 through late 1988, I was President and CEO of Mechanics Bank of Paramount. Mechanics has 10 branches with $136 million in assets.

During 1988, Mechanics Bank filed 2,660 CTRs; I checked with them for their 1989 figures and found that year-to-date 2,600 have been filed with a projection of 3,500 by year end.

Of these 6,100 CTRs, only two cases appeared particularly suspicious. The first case was of a retail swimming suit store running large amounts of money through the bank on a daily basis. The amount of money was totally out of line with the size of business, especially considering the season.

The second case involved a specific pattern at a Huntington Park branch located in an inner-city area of daily deposits of $9,950.

In both cases, not only did the bank file the appropriate forms but the Treasury Department was alerted of these suspicious activi-

ties by telephone. An inspector did investigate, scanned the bank records, asked a few questions, but in neither case was the activity curtailed.

The large deposits from the swim wear store continued, as did the daily pattern of deposits at the Huntington Park branch. Management at the Mechanics Bank has grown extremely frustrated by these experiences. They have complained that in calling attention to particularly suspicious cases of money laundering, their efforts at trying to be good citizens have been totally ignored by the government.

When I called bank management's attention to the government reward system as an incentive to continue to report these cases, their reply was that (1) they were unaware that a reward system existed; and (2) it was not worth the effort. They simply decided not to call again.

Whatever incentive the reward program was intended to offer, it was more than offset by the frustration resulting from the lack of governmental response.

Since November 1988, I have been President and CEO of American Commerce National Bank in Anaheim, a single unit bank with $90 million in assets. In 1988, we filed 698 CTRs; 1,102 have been filed year-to-date, 1989, with a projection of 1,500 filings by year end. We have encountered no cases where we suspect money laundering.

In less than two years, Mr. Chairman, these two banks have filed 7,000 CTRs, only two of which have been obviously suspicious. In both of those cases, the government took little action.

In none of the other cases was there even an instance of a spontaneous request for information. There has simply been no follow-through by the government.

On the other hand, bank examiners have occasionally written violation notices for simple clerical mistakes—a digit missing or a typographical error, for example.

In addition to the considerable frustration felt by these bankers, consider the real cost in terms of time spent by staff in complying with the regulations because of the detailed nature of the information required on a CTR. The teller handling the transaction must complete the form. If the information needed is readily available, the teller can complete the form in about eight minutes. If the teller is required to find information in another area—for example, the signature card drawer—it can double the time needed to complete the CTR, up to 16 minutes.

Once the CTR is completed by the teller, it is reviewed by a supervisor for accuracy; with possible corrections, this can take five minutes. The form then goes to the administrative department where the information is compiled and rechecked for accuracy. This takes another five minutes. Depending upon the complexity of the CTR, then, each form requires from 18–26 minutes to complete.

For purposes of complying with Bank Secrecy Act regulations, two to three tellers per branch are usually involved in this activity on a day long, full week basis. Based on the projected 3,500 filings at Mechanics for 1989 and assuming an eight-hour work day, that accounts for anywhere from 131 to 190 hours of work devoted to

complying with this one of many regulatory requirements imposed on this and every other bank.

This is a crushing blow to a small bank attempting to serve its customers in an efficient manner while maintaining an acceptable level of profit.

In weighing the benefits of compliance with the cost, it seems obvious in which direction the scales will tip. As stated earlier, community banks are eager to do their part in stopping money launderers in their tracks.

In that regard, our goal is to ensure that the regulations remain effective while not posing an unnecessary compliance burden on affected institutions.

Unfortunately, our experience in the Los Angeles case tends to suggest that even though banks have steadily increased their efforts to comply with the Bank Secrecy Act, both their regulatory burden and the drug epidemic continues to spread at an alarming rate.

In the final analysis, Mr. Chairman, we must agree that the most effective weapon in the war on money laundering is to, "Know Your Customer". In fact, IBAA's advertising slogan for the community bank is "We know you. You know us."

Thank you for the opportunity to address this vital issue. I will be happy to answer any questions you may wish to ask.

[The complete statement of L. Don Sargent follows:]

Testimony of

INDEPENDENT BANKERS ASSOCIATION OF AMERICA

L. Don Sargent
President and CEO, American Commerce National Bank
Anaheim, California

before the

Senate Banking Committee, Subcommittee on
Consumer and Regulatory Affairs

Oversight Hearing on Money Laundering

Wednesday, November 1, 1989

Summary of Testimony by L. Don Sargent
Independent Bankers Association of America

Halting the money laundering operations of organized crime and drug traffickers is a laudable goal and one strongly supported by the community bank members of the Independent Bankers Association of America (IBAA). The IBAA is deeply concerned, however, about the increasing regulatory burden associated with the Bank Secrecy Act.

The experiences of two Los Angeles-area banks illustrate this concern by demonstrating the burden in terms of time and cost, weighed against the frustration of little or no government concern with their efforts. The failure of the government to follow through even in cases of obvious money laundering, or to indicate its interest in thousands of other filings, has prompted at least one bank to discontinue its extra efforts to corner money launderers, regardless of the promises of a government reward program. Adding insult to injury, while ignoring their CTRs for their stated purposes, the banks have been penalized for violating the regulations for making simple clerical errors on their forms.

The experience of these banks is that the Bank Secrecy Act has created a high level of frustration and cost for little, if no, return. In the final analysis, the most effective policy for them and other banks is to "Know Your Customer."

Mr. Chairman and members of the subcommittee, my name is L. Don Sargent. I am President and CEO of American Commerce National Bank in Anaheim, California and am appearing this morning on behalf of the Independent Bankers Association of America (IBAA). The IBAA is the only national trade association that exclusively represents the interests of our nation's community banks. As a member of that organization, I am chairman of the Bank Education Committee and director for the state of California.

I appreciate the opportunity to discuss some of the serious concerns community bankers have about money laundering. Halting the money laundering operations of organized crime and drug traffickers is a laudable goal and one that community bankers strongly support. Indeed, we have been cooperating in attempting to achieve that goal, whether through promoting educational material on the subject to our membership or commenting on specific Congressional or regulatory proposals. In the educational area, we endorsed and promoted to our members a "Bank Secrecy Act Update" videotape for bank employees and bank senior management. We have also attempted to keep our members informed through printed materials on the subject.

In addition, Mr. Chairman, we recognize that the money laundering problem is, of course, part and parcel of the drug abuse crisis our nation faces. Community bankers are already involved in the fight on several levels.

For instance, for the past three years my bank has sponsored an anti-drug program for elementary school students, based upon the former Administration's "Just Say No" crusade. The program is a coordinated effort, involving materials for teachers, classroom presentations, a 45-minute show by costumed actors, and a follow-up session by the teachers, all of which is geared toward a young audience. The goal is to prevent today's children from becoming tomorrow's addicts.

On the national level, I am proud to announce that the IBAA has adopted a new program, called "Bank on Prevention," designed to help deter abuse of drugs and alcohol, and thus to preserve the future of America's communities. IBAA will act as a clearinghouse to supply its 6,300 member community banks with information and strategies for establishing their own drug and alcohol abuse prevention programs in their communities. IBAA will also act to publicize successful efforts. Our bankers know their communities and are in a position to lead their neighbors in a nationwide grassroots network of drug-prevention programs.

An example of this approach is a program designed by Rockland County, New York, officials and implemented by Thomas E. Hales, Chairman/CEO of Union State Bank in Nanuet, New York and which was later adopted by the Independent Bankers Association of New York State. Hales' approach, which has received national recognition from drug czar William Bennett, uses the concept of not-for-profit community trusts to raise and distribute private sector funds to fight drug abuse. It brings together a wide range of citizens,

institutions and businesses in each community to broaden the effort to stop drug abuse. The money raised through these community trusts is effectively channeled to the programs that can put it to best use in meeting the community's special needs. The primary goal is to strengthen the family unit so that our nation's children do not turn to drugs and alcohol.

The Independent Bankers Association of America is deeply concerned, however, about the increasing regulatory burden associated with the Bank Secrecy Act. In our recent comment letter to the Treasury Department on its proposal to target certain geographic areas for increased recordkeeping and reporting requirements, the IBAA offered concrete suggestions for achieving the goal of the proposal while minimizing the regulatory burden for community banks (see attached). These suggestions, unfortunately, were not incorporated into the new regulations. Neither were the concerns of a small-town banker from Ceylon, Minnesota, who was representative of thousands of others across this nation, when in commenting on this proposal, he wrote:

> "I have no problem with your need to stop money laundering in an effort to slow drug trafficking in this country. My main concern is that you are using the usual governmental "shotgun approach" to correct a problem that affects a minority of the banks in the population centers of the nation. If you would get out your "rifle" and shoot the troubled areas it would make more sense.
>
> "My bank is located in a town of 500 people in rural Minnesota. I am one of some 7,000 independent community banks in this nation who are being snowed under by government recordkeeping and regulation. I not only know everyone of my customers on sight, I can tell you most of their first names and who their spouses and children are. If you called me on the phone and asked about whether one of their checks would bounce I could probably tell you without bringing their name up on the screen. Consequently, I would know if they were making a habit of buying travelers checks, money orders, or making large cash deposits of $3,000 or more, and I would start asking some questions! I don't need to keep a chronological log of my customer's activities, and neither do 90% of the other small rural banks...we can tell you off the top of our heads what our customers are doing because we see them several times a week and frequently sit in the same pew with them on Sunday morning.
>
> "Of equal importance to your proposed log-keeping requirement is my question to you: How many of the more than 14,000 commercial banks and a similar number of savings and loans are you actually going to check in the nation? Most of us will be burdened with the

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paperwork and we will never see a Treasury agent. For that matter how many Treasury agents do you have in Minnesota to check more than 750 commercial banks? I rest my case."

Even the Attorney General of the United States acknowledged the impact of the geometric expansion of reports being filed. "In 1983, reports numbered around 740,000 annually ... This year we are already over six milion ... In equal candor, I must also admit that these millions are now part of the problem, as well as the solution." (Address by Dick Thornburgh, Attorney General of the United States, before the American Bankers Association, New York, New York, Thursday, October 26, 1989, pages 5-6) The IBAA believes it is critical that the enforcement agencies requesting these millions of reports understand that there is an accompanying burden to the reporting institution. Certification by an enforcement agency that the information is being utilized could assure the community bankers of America that their efforts are not merely an exercise in futility.

Let me illustrate this concern for you by demonstrating from my personal experience what is happening in California, and how some of its banks are responding.

For the past four years I have been affiliated with two Los Angeles-area banks. From early 1986 through late 1988 I was the president and CEO of Mechanics Bank of Paramount. Mechanics has 10 branches with $136 million in assets. During 1988, Mechanics Bank filed 2,660 CTRs. I checked with them for their 1989 figures and found that year-to-date, 2,600 have been filed, with a projection of 3,500 by year-end.

Of these 6,100 CTRs, only <u>two</u> cases appeared particularly suspicious. The first case was of a retail swimming suit store running large amounts of money through the bank on a daily basis. The amount of money was totally out of line for the size of the business, especially considering the season. The second case involved a specific pattern at a Huntington Park branch, located in an inner-city area, of daily deposits of $9,950.

In both cases, not only did the bank file the appropriate forms, but the Treasury Department was alerted of these suspicious activities by telephone. An inspector did investigate, scanned the bank records and asked a few questions, but in neither case was the activity curtailed. The large deposits from the swimwear store continued, as did the daily pattern of deposits at the Huntington Park branch.

Management at the Mechanics Bank has grown extremely frustrated by these experiences. They have complained that in calling attention to particularly suspicious cases of money laundering, their efforts at trying to be good citizens have been totally ignored by the government. When I called bank management's attention to the government reward system as an incentive to continue to report these cases, their reply was that one, they were unaware that a reward program existed, and two, it was not worth the effort. They simply decided not to call again. Whatever incentive the reward program was

intended to offer, it was more than offset by the frustration resulting from the lack of governmental response.

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In less than two years, Mr. Chairman, these two banks have filed 7,000 CTRs, only two of which have been obviously suspicious. In both of those cases the government took little action. In none of the other cases was there even an instance of a spontaneous request for information -- there has simply been no follow-through by the government. On the other hand, bank examiners have occasionally written violation notices for simple clerical mistakes -- a digit missing, or a typographical error, for example.

In addition to the considerable frustration felt by these bankers, consider the real costs in terms of time spent by staff in complying with the regulations. Because of the details and nature of the information required on a CTR, the teller handling the transaction must complete the form. If the information needed is readily available, the teller can complete the form in about eight minutes. If the teller is required to find information in another area, e.g., the signature card drawer, it can double the time needed to complete the CTR -- up to 16 minutes. Once the CTR is completed by the teller, it is reviewed by a supervisor for accuracy. With possible corrections, this can take five minutes. The form then goes to the administrative department, where the information is compiled and rechecked for accuracy. This takes another five minutes. Depending on the complexity of the CTR, then, each form requires from 18 to 26 minutes to complete for purposes of complying with the Bank Secrecy Act regulations. Two to three tellers per branch are usually involved in this activity on a day-long, full-week basis.

Based on the projected 3,500 filings of Mechanics for 1989, and assuming an eight-hour work day, that accounts for anywhere from 131 to 190 hours of work devoted to complying with this one of many regulatory requirements imposed on this and every other bank. This is a crushing blow to a small bank attempting to serve its customers in an efficient manner while maintaining an acceptable level of profit. In weighing the benefits of compliance with the costs, it seems obvious in which direction the scales would tip.

These are just a few examples. Multiply these by thousands of banks -- large and small -- and imagine the extent of the time, effort, and cost associated with complying with the Bank Secrecy Act. Then imagine the level of frustration felt by bankers when their efforts have been consistently, and often completely, ignored by the very government agencies demanding that we meet this ever-increasing compliance burden.

As stated earlier, community banks are eager to do their part in stopping money launderers in their tracks. In that regard, our goal is to ensure that the regulations remain effective while not posing an

unnecessary compliance burden on affected institutions. Unfortunately, our experience in the Los Angeles Basin tends to suggest that even though banks have steadily increased their efforts to comply with the Bank Secrecy Act, both their regulatory burden and the drug epidemic continue to spread at an alarming rate.

In the final analysis, Mr. Chairman, we must agree that the most effective weapon in the war on money launderers is "Know Your Customer," a policy adopted throughout the banking community and repeated just last Thursday by Attorney General Thornburgh. In fact, IBAA's advertising slogan for the community bank is "You Know Us. We Know You."

In summary, the IBAA and its members have taken many steps to combat the drug scourge at many levels, including our newly adopted "Bank on Prevention" program. We are anxious to assist the government in any way possible, so long as the regulatory burden meets a corresponding degree of effort by the government and produces concrete results.

Thank you for the opportunity to address this vital issue. I will be happy to answer any questions you may wish to ask.

O. Jay Tomson
President
Philip J. Vallandingham
President-Elect
David Baltwey
Vice President
Edward A. Sheldon
Treasurer
J. R. Nunn
Chairman
Kenneth A. Guentner
Executive Vice President

May 11, 1989

Ms. Amy G. Rudnick
Director
Office of Financial Enforcement
Office of the Assistant Secretary
Department of the Treasury
Room 4320
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

Re: 31 CFR Part 103; Proposed Amendment to the Bank Secrecy Act Regulations Relating to Geographic Reporting of Certain Domestic Currency Transactions

Dear Ms. Rudnick:

The Independent Bankers Association of America (IBAA) submits these comments in response to the Treasury's proposed regulation regarding the procedures it would follow to issue an order to identify financial institutions in certain geographic locations for special reporting of currency transactions in amounts less than $10,000 for a limited period of time. The IBAA is the only national trade association exclusively dedicated to representing the interests of community banks.

This geographic reporting requirement will be in addition to the present reporting requirement for currency transactions over $10,000. In the proposal, it is noted that the House report on this provision stated that geographic targeting for recordkeeping and reporting requirements would provide law enforcement authorities with additional tools to combat money laundering operations. Halting the money laundering operations of organized crime and drug traffickers is a laudable goal and one that community bankers support. However, the Independent Bankers Association of America is deeply concerned about the increasing regulatory burden associated with the Bank Secrecy Act regulations.

The proposed regulation would permit targeting of a geographic area for a 60-day period unless renewed pursuant to the established procedure. Congress stated when passing this provision that it would be for a limited duration. Therefore, the IBAA recommends that the continuation of a geographic targeting order be contingent on certification by the requesting Federal or state law enforcement official, that the information is in fact being utilized. The IBAA believes it is critical that the enforcement agencies requesting the additional information understand that there is an accompanying burden to the reporting institution. Certification by an enforcement agency, including Treasury, that the information is being utilized, could help prevent "permanent" temporary orders.

The proposal states that "Treasury will make every effort to work with the targeted financial institutions to ensure maximum compliance with the targeting order at a minimum burden to the financial institution." This is essential. Financial institutions face increasing liability for noncompliance, even noncompliance which is inadvertent; therefore, it is critical that the regulatory agencies provide guidance and assistance to the fullest possible extent to affected institutions.

We believe that the proposal is vague with regard to defining "sufficient lead time" for institutions required to comply with a geographic targeting order. The IBAA urges the Treasury to provide a minimum of two weeks or 10 business days notice to an affected financial institution. Ten business days notice for a law enforcement agency which has determined that reasonable grounds exist for additional recordkeeping and reporting is not an unreasonable requirement. A bank can put in place adequate compliance procedures for the additional recordkeeping and reporting with 10 business days prior notice. If the circumstances of an investigation require expeditious action, IBAA believes that it would be reasonable for Treasury to provide the requesting agency a waiver of the notice period. However waivers should be utilized only in extreme circumstances. A defined notice period will permit financial institutions to better prepare for these reporting requirements. Adequate notice periods are especially important in small institutions which lack personnel depth.

IBAA strongly supports the Treasury statement that in complying with a particular order, financial institutions will not be required to purchase additional computer hardware or software. This is of key importance to smaller institutions that still rely heavily on manual systems. We strongly recommend that the compliance assistance offered to institutions subject to geographic targeting orders not overlook manual procedures and applications. We strongly recommend that this compliance assistance not overlook the manual procedures and applications.

The proposal notes that those financial institutions with manual aggregation systems should not have any problems adjusting their manual systems to capture the data required in a geographic targeting order. The IBAA urges the Treasury to fully consider the burdens or problems associated with the reporting and recordkeeping requirements for institutions with manual systems. These manual systems oftentimes require more man-hours for accommodating new or additional reporting than those which are computerized.

To avoid circumvention of the order, the proposal states that a financial institution subject to a geographic targeting order would not notify the public of the enhanced reporting and recordkeeping, but merely advise its customers at the time of the transaction that the information sought is required by Federal regulation. It is our understanding that the orders may target any amount of currency for reporting. If this is correct, it is possible that a bank could be required to report transactions for a large number of customers during the enhanced reporting period. For smaller institutions who know most of their customers, these reporting requirements could cause customer relations problems. The IBAA recommends that the Treasury allow institutions the option of informing their customers why they are requesting additional information and that required statements should only be made in response to a direct question.

The IBAA appreciates the opportunity to provide Treasury with these comments on the proposed amendments to the Bank Secrecy Act. Our goal is to ensure that the regulations remain effective while not posing an unnecessary compliance burden on affected institutions.

Sincerely,

O. Jay Tomson
President

OJT/dc

Senator KERRY. How much time do you have with respect to your flight?

Mr. SARGENT. I have a half hour. I think I can get to the airport. The plane leaves at 2, so I have some flexibility.

Senator KERRY. Fine. Why don't we just run through the other two testimonies quickly and then I'll ask you a few questions.

STATEMENT OF JEROME S. GAGERMAN, PRESIDENT, NATIONAL CHECK CASHERS ASSOCIATION, CHICAGO, IL

Mr. GAGERMAN. Good afternoon, Mr. Chairman. My name is Jerome Gagerman, President of Financial Clearings Incorporated of Chicago and Chairman of the Board of the National Check Cashers Association, and Chairman of its Executive Committee.

We appreciate your invitation to appear before this Committee to provide you with some background information on the check-cashing industry, our organization, the National Check Cashers Association, and to present our perspectives on the money laundering issue.

The National Check Cashers Association is a relatively new association. It's about three and a half years old, presently consisting of more than 600 corporate members, operating over 1,500 check cashing locations in 24 States.

Illinois with more than 600 financial centers has our largest concentration of members. New York has more than 280 locations represented. The National Check Cashers Association was created with several goals in mind, one of which has been to establish a code of conduct which would serve to provide guidelines and ethical standards with which all of our members could comply.

We deplore those few but highly publicized instances of public abuse and we support efforts to eliminate them.

The vast majority of operators in our industry are hardworking and ethical people operating small businesses who provide high-quality, reasonably priced services involving millions of legitimate transactions to hundreds of thousands of customers.

The Check Cashers are important in the delivery of government benefits. In Illinois, our industry distributes monthly benefits to approximately 450,000 households for food stamps and 250,000 cases receiving State public aid warrants.

We provide a similar service in New York City where Check Cashers are the heart of the City's electronic benefit distribution system.

The New York City system currently serves approximately 500,000 households through a network of participating Check Cashers.

We endeavor to keep our members informed of issues of importance and inform them of the potential penalties for infractions of applicable laws and regulations. We are considering adding a provision to our code of conduct referring to compliance with applicable federal statutes, such as the Bank Secrecy Act.

As you know, Check Cashers or Currency Exchangers as they are called in Illinois, are among those types of companies that fall within the provisions of the Bank Secrecy Act. Others covered include banks, thrift institutions, brokers or dealers in securities or

commodities, investment bankers, operators of credit card systems, dealers in precious metals, stones, jewelers, insurance companies, pawn brokers, et cetera.

The point here is that there are a myriad of businesses which are regulated under the Bank Secrecy Act and these businesses are no more or less susceptible to abuse than is our industry.

As you know, the regulations require the completion of a currency transaction report whenever a cash transaction exceeds $10,000 or, under certain circumstances, when a group of transactions exceeds $10,000.

The regulation further requires the financial institution to verify and record the name and address of the individual presenting the transaction. And of course there is the requirement to be aware of suspicious structured transactions.

Again, Check Cashers are no more or less susceptible to elicit money laundering schemes than other institutions. The overwhelming majority of Check Cashers know the responsibilities and they comply with all of the regulatory requirements.

Recently, it has been widely reported that a major problem has arisen because of the number of illegal money transmitters that operate in some areas. The statement made clear that money transmitters are not the same as Check Cashers. For example, the New York Times on September 25th of this year stated that the banking regulators in New York have identified more than 130 illegal money transmitters in the New York City area, and that many more have gone undetected.

The State has issued licenses to 35 companies with more than half of them being granted in the last year. None of these companies were Check Cashers. Money transmitters are companies that sell or issue instruments used in the transmission or payment of money, including such items as traveler's checks, money orders, wire transfers, Check Cashers act as agents who are authorized by the money transmitter to engage in money transmission at locations other than an office of the money transmitter.

Money orders can also be used for the purpose of money laundering and there are many types of retailers that sell money orders, including drug stores, travel agencies, convenience stores, the United States Post Office, banks, thrifts and Check Cashers.

The Check Cashers again consequently is no more likely than other retailers to be involved in money laundering. I can't speak about other retailers but in my own experience, the Internal Revenue Service examines our own money order records on a yearly basis.

In the States of New York and Illinois, Check Cashers act as agents for licensed money transmitters, such as Western Union, Traveler's Express and American Express. In fact, this is true for most professional Check Cashers throughout the country.

In discussions with the Committee staff, we were asked to outline the status of regulation of the check cashing industry. With the exception of federal regulations that apply to all businesses and the Bank Secrecy Act, there really is no other regulation except at the State level.

In all States, Check Cashers are regulated, as are all other businesses at the municipal, county and state levels; in those States

where the industry is covered by specific regulation, three areas are covered—licensing, permissible services and rates.

The States presently regulating the check cashing industry are New York, New Jersey, Illinois, Connecticut and Minnesota. In these States, the responsible regulatory agency is the same agency that regulates other financial institutions. In general, an application must be approved by the regulator before a new check cashing location can open for business.

Of those States that regulate the check cashing industry, New Jersey, Minnesota and Illinois have placed no limit on the size of a check that a Check Casher can handle, but Connecticut and New York place a statutory limit of $2,500 on the size of a check.

Many believe that this limitation is unrealistic and unnecessary, since many legitimate transactions exceed $2,500. In my home State of Illinois, we have been working directly with the Internal Revenue Service in an attempt to ferret out the names and addresses of individuals who may be laundering large sums of money. We have taken the opportunity to make our records available to the Internal Revenue Service for this purpose.

I think one of the factors that must be made clear is when we talk about Check Cashers, we are talking about the true Check Casher. If one examines what a professional Check Casher does, it is exactly the opposite of what this Committee is investigating.

What professional Check Cashers tend to do with a few minor exceptions is draw cash from banks and turn negotiable instruments into cash, not take cash and put it into the banking system.

In terms of the Currency Transaction Reports, many of the banks that service our industry in Illinois, whenever they ship more than $10,000 to one of our locations, which happens on a daily basis, they must fill out a Currency Transaction Report.

Last year, two of our banks in Illinois were cited for malicious compliance of the Bank Secrecy Act for filling out currency transactions.

We're prepared to assist in any reasonable way to prevent our industry from being used for other than lawful purposes.

Thank you.

[The complete statement of Jerome S. Gagerman follows:]

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TESTIMONY BEFORE THE SENATE BANKING SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

by

JEROME S. GAGERMAN

THE NATIONAL CHECK CASHERS ASSOCIATION
(NaCCA)

November 1, 1989

Good morning. Mr. Chairman and members of the committee, my name is Jerome S. Gagerman. I am President of Financial Clearings, Inc., of Chicago, Illinois, Chairman of the Board of Directors of the National Check Cashers Association and Chairman of its Executive Committee.

We appreciate your invitation to appear before this committee to provide you with some background information on the check cashing industry; our organization, the National Check Cashers Association; and to present our perspectives on the money laundering issue.

The National Check Cashers Association is a relatively new association, presently consisting of more than 600 corporate members operating over 1500 check cashing locations in 24 states. Illinois, with more than 600 financial service centers, has our largest concentration of members; New York has more than 280 locations represented.

The National Check Cashers Association was created with several goals in mind, one of which has been to establish a code of conduct which would serve to provide guidelines and ethical standards with which all of our members could comply. We deplore those few but highly publicized instances of public abuse and we support efforts to eliminate them. The vast majority of the operators in our industry are hard working and ethical people, operating small businesses, who provide high quality reasonably priced services, involving millions of legitimate transactions, to hundreds of thousands of customers.

The check cashers are important in the delivery of government benefits. In Illinois our industry distributes monthly benefits to approximately 450,000 households for food stamps and 250,000 cases receiving state public aid warrants. We provide a similar service in New York City where check cashers are the heart of the City's electronic benefit distribution system. The New York City System currently serves approximately 500,000 households through a network of participating check cashers.

We endeavor to keep our members informed of issues of importance and inform them of the potential penalties for infractions of applicable laws and regulations. We are considering adding a provision to our code of conduct referring to compliance with applicable Federal statutes such as the Bank Secrecy Act.

As you know, check cashers, or currency exchanges, are among those types of companies that fall within the provisions of the Bank Secrecy Act. Others covered include banks; thrift institutions; brokers or dealers in securities or commodities; investment bankers; operators of credit card systems; dealers in precious metals, stones or jewels; insurance companies; pawnbrokers; loan or finance companies; travel agencies; licensed senders of money; and telegraph companies. The point here is that there are a myriad of businesses which are regulated under the Bank Secrecy Act and these businesses are no more or less susceptible to abuses than is our industry.

As you know, the regulations require the completion of a Currency Transaction Report (CTR) whenever a cash transaction exceeds $10,000 or under certain circumstances, when a group of transactions exceeds $10,000. The regulation further requires the financial institution to verify and record the name and address of the individual presenting the transaction and, of course, there is the requirement to be aware of suspicious structured transactions. Again, check cashers are no more or less susceptible to illicit money laundering schemes than other entities covered by the Bank Secrecy Act. The overwhelming majority of check cashers know their responsibilities and they comply with all of the regulatory requirements.

Recently it has been widely reported that a major problem has arisen because of the number of illegal money transmitters that operate in some areas. It should be made clear that money transmitters are not the same as check cashers. For example, the New York Times, on September 25, 1989, stated that the banking regulators have identified more than 130 illegal money transmitters in the New York City area and that many more have gone undetected. The State has issued licenses to 35 companies, with more than half of them being granted in the last year. <u>None of these companiies were check cashers.</u>

Money transmitters are companies that sell or issue instruments used in the transmission or payment of money, including such items as travelers checks, money orders, wire transfers, facsimile transfers, etc.. Check cashers act as agents who are authorized by the money transmitter to engage in money transmission at locations other than an office of the money transmitter.

Money orders can also be used for the purpose of money launderinig and there are many types of retailers that sell money orders, including drug stores, travel agencies, convenience stores and check cashers. The check casher is, consequently, no more likely than these other retailers to be involved in money laundering.

I can't speak about these other retailers, but in my own experience the Internal Revenue Service examines my money order files on a periodic basis.

In the States of New York and Illinois, check cashers act as agents for licensed money transmitters such as Western Union, Travelers Express and American Express. In fact, this is true for most professional check cashers throughout the country.

In discussion with committee staff, we were asked to outline the status of regulation of the check cashing industry. With the exception of Federal regulations that apply to all businesses and the Bank Secrecy Act that applies to check cashers and other financial institutions, the industry, where we are regulated, is regulated at the state level.

In all states, check cashers are regulated, as are all other businesses, at the municipal, county and state levels. In those states where the industry is covered by specific regulation, three areas are covered - licensing, permissible services, and rates. The states presently regulating the check cashing industry are New York, New Jersey, Illinois, Connecticut and Minnesota. In these states, the responsible regulatory agency is the same agency that regulates other financial institutions. In general, an application must be approved by the regulator before a new check cashing location can open for business.

Of those states that regulate the check cashing industry, New Jersey, Minnesota and Illinois have placed no limit on the size of a check that a check casher can handle, but Connecticut and New York have placed a statutory limit of $2,500 on the size of a check. Many believe that this limitation is unrealistic and unnecessary since many legitimate transactions exceed $2,500.

In my home state of Illinois, we have been working directly with the Internal Revenue Service in an attempt to ferret out the names and addresses of individuals who may be laundering large sums of money. We have taken the opportunity to make our records available to the IRS for this purpose.

We are prepared to assist in any reasonable way to prevent our industry from being used for other than lawful purposes.

Thank you for the opportunity to appear today. We are ready to help in any way that we can to alleviate the problem. Please do not hesitate to call upon us.

Senator KERRY. Thank you very much. We appreciate it.
Mr. Melnikoff.

STATEMENT OF BORIS MELNIKOFF, AMERICAN BANKERS ASSOCIATION, ATLANTA, GA

Mr. MELNIKOFF. Mr. Chairman, I'll make some abbreviated statements here in the interest of time.

I'm Boris Melnikoff, Senior Vice President of the 1st Atlanta Corporation, Vice Chair of the American Bankers Association, Security and Risk Management Executive Committee and Vice Chairman of the American Bankers Association Money Laundering Task Force.

We welcome the opportunity to discuss the industry's ongoing efforts to stem the tide of money laundering. The ABA and the industry understands the challenge that law enforcement officials face in attempting to combat this problem.

The American Bankers Association has been in the forefront of providing information and education to the banking community in order to prevent our institutions from being part of this process.

As matter of fact, Mr. Chairman, on the behalf of the ABA in 1985, I testified before the House Judiciary Committee to confirm that ABA supported making money laundering a crime and doing so, we sponsored a series of seminar satellite conferences nationwide; within nine months since we committed to that—within nine months—we educated over 6,000 bankers across this nation as to some of the techniques and some of the schemes that were being used by traffickers and launderers.

In February 1989, the American Bankers Association formally announced the creation of a task force on money laundering. We have included for your information a copy of this week's American Bankers Weekly that is dedicated to the issue of money laundering, which the ABA felt was so important that we mailed the edition to all members of the industry even those who do not belong to ABA.

Mr. Chairman, the banking industry has a solid history of alliance with law enforcement officials in an effort to deter money laundering. We are well aware of the dramatic success of Operation Polarcap and the critical role played by Wells Fargo and Bank of America employees, who tipped off the government as to the unusual financial transactions.

However, there are numerous stories of cooperation between bankers and officials and law enforcement to detect and deter money launderers.

We in Atlanta three years ago received one phone call on a suspicious transaction of a federal person who was purchasing cashier's checks and placed the purchased cashier's checks under the $10,000 limit into a packet, and the teller spotted other cashier's checks. She called it in to a group called Special Services, who quickly fanned the area. And by the end of the day, the FBI arrested three individuals who were smurfing. And in their possession was in excess of $240,000 in cash plus a significant number of cashier's checks, which they had already purchased.

This indeed was beyond the scope of the regulation and the law. It's the training that the institutions of the ABA are putting forth to reduce that type of exposure.

In addition to the estimated six million cash transaction reports filed with Internal Revenue Service on routine cash transactions, the banking industry is responding to the need for active cooperation with the voluntary reporting of suspicious transactions.

In the State of Georgia, we have a money laundering law that requires us to report before the day is out to the State Banking Office any transaction exceeding $50,000 in cash.

There is a penalty also with this. This number of filed reports is in stark contrast to the reports filed by trades or businesses other than financial institutions for currency transactions over $10,000 in 1988. Only 20,000 such reports were filed.

The private sector citizens need to increase their role in money laundering deterrents or all of our work will be for naught.

It is encouraging that the Internal Revenue Service is now emphasizing this kind of reporting.

Mr. Chairman, the ABA's Money Laundering Task Force submitted a series of recommendations to William Bennett, Director of the Office of National Drug Control Policy on money laundering deterrents. We are proud of our work in the area of hindering money launderers. There is, however, a need for consistency in supervision and regulation of the financial industry.

This can only occur if the government and the banking industry understand their respective roles. One way to do this is by educating the industry on the latest tactics and techniques utilized by launderers. We do realize the problem is a result of diminishing resources and the increased workload of the investigatory parts of the Justice Department.

However, I would like to share with you one quick story that surfaced only this week as to a new technique, and it was immediately shared with those agencies necessary to investigate it.

The purchasing of money orders by purchase in their own businesses to skim off the top of receipts and taking these money orders and depositing them into various accounts at various banks and collectively going to the other banks and accumulating the money and depositing it into another account. Several other accounts, at several other banks.

In discussing this with Enforcement, they said they had not seen this scheme yet and they would take the appropriate action. That was uncovered by a teller handling a night deposit transaction.

So I think we have learned a valuable lesson. The industry is aware of what needs to be done and we are going forth to do it.

The task force recommends a formal dialogue between the two parties on a frequent basis to keep abreast of what is necessary to combat the crimes. The banking industry needs to know whether or not the system works and if our efforts in reporting have paid dividends.

The emphasis now must shift in a logical and reasonable manner from currency transaction tracking to know your customer. We agree with it 100 percent.

Senator Kerry, we agree and we support a money laundering advisory commission and an anti-drug commission. We support that.

We do hope we have the opportunity to participate in it and put those parties together that are necessary to resolve this problem.

One quick comment. The industry has conducted a burden on bank regulation study and we have heard many comments. There's one comment here that will take one second.

Bankers in our study group expressed strong support for the underlying goal of limiting drug traffic. Most appeared quite willing to accept some cost in order to further this goal.

One compliance officer whom we interviewed stated seriously and emphatically:

"It's our kids that we're doing this for."

And I believe the Committee was given a copy of this.

Thank you.

[The complete statement of Boris F. Melnikoff follows:]

STATEMENT

OF

BORIS F. MELNIKOFF

ON BEHALF OF

THE AMERICAN BANKERS ASSOCIATION

ON

MONEY LAUNDERING DETERRENCE

BEFORE THE

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

UNITED STATES SENATE

NOVEMBER 1, 1989

Mr. Chairman and members of the Committee, I am Boris F. Melnikoff, Senior Vice President of First Atlanta Corporation in Atlanta, Georgia, Vice Chairman of the American Bankers Association's Security and Risk Management Executive Committee and Vice Chairman of the American Bankers Association Money Laundering Task Force. The combined assets of our members comprise approximately 95 percent of the industry total. ABA members range from the smallest to the largest banks, and close to 85 percent of them have assets of less than $100 million. We welcome the opportunity to discuss the banking industry's ongoing efforts to stem the tide of money laundering.

The ABA and the industry understand the challenge that law enforcement officials face in attempting to combat drug trafficking and organized crime. The use of financial institutions as havens for drug money is as abhorrent to our members as it is to the public in general. Therefore, we appreciate a forum to show that the industry response has been extensive, effective and ongoing.[1]

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[1]The Association Director of the White House Office of National Drug Control Policy stated:

> "We applaud the efforts being taken by most financial institutions and we believe that most financial institutions are, in fact, doing the role that they should do in trying to fight this problem.
>
> We know that you care and we know that you realize this

(Footnote Continued)

Throughout the 1980's, the issue of drug abuse has rightfully been a primary focus on Capitol Hill, with the media and by the public. Unfortunately, one key element of illegal drug activity has been to use our nation's financial institutions to "launder" drug proceeds. Since the early part of this decade, the financial industry has cooperated closely with the law enforcement community to rid our nation's institutions of this terrible menace. The American Bankers Association has been in the forefront of providing information and education to the banking community in order to prevent our institutions from being part of this process.[2] As a matter of fact, Mr. Chairman, I testified on

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(Footnote Continued)
country is at risk and, thereofre, we understand you're willing to pay the price to help us fight this battle. We appreciate that and we ask for further cooperation."

[2]Since the money laundering issue came to the forefront in the mid-1980s, the American Bankers Association has been involved in a series of educational and informational activities. In 1985, the ABA held a major teleconference that was co-sponsored by over 30 state banking associations and included government officials from the Treasury, the FDIC, the OCC and the IRS who explained the parameters of the problem. Over 6,000 bankers participated in the program. Then, in the 99th Congress, ABA supported and advised Congress on various ways to eliminate money laundering, which were incorporated into the Money Laundering Control Act of 1986. After the 1986 Money Laundering Control Act, ABA put on 17 regional seminars with over 3,000 bankers in attendance. Recently, the ABA completed another series of educational seminars on the BSA with 23 state associations at 27 sites. In total, our association has helped train over 12,000 to 15,000 bankers at various conferences and compliance schools on the Bank Secrecy Act and an untold number with our publications and videotapes.

behalf of ABA in 1985 before the House Judiciary Committee to confirm that ABA supported making money laundering a crime. Regulatory agencies and the Congress have passed or promulgated a myriad of legislation and regulations designed, in part, to stop the flow of drug money. Most of these changes have been to the Bank Secrecy Act.[3]

The Bank Secrecy Act (BSA) is a label commonly given to the Currency and Foreign Transactions Reporting Act of 1970. The Act's recordkeeping and reporting requirements were designed partly to help deter white-collar crime (such as income tax evasion) by furnishing law enforcement agencies with greater evidence of financial transactions, and partly to obtain additional information about the use of secret foreign bank accounts by U.S. citizens (thus, the name Bank Secrecy).

In enacting the original Bank Secrecy Act, Congress sought to achieve four goals:

1) Improve the detection and investigation of criminal, tax, and regulatory violations -- by mandating reporting requirements regarding suspicious and unusual transactions

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[3]P.L. 91-508.

and movements of currency and monetary instruments (both domestically and internationally);

2) Impose criminal penalties on persons and financial institutions that did not comply with the reporting requirements of the act;

3) Help deter the use of secret foreign bank accounts by U.S. citizens to conduct criminal activities and to evade law and other regulatory financial reporting requirements; and

4) Create an investigative "paper trail" -- by requiring banks and other financial institutions to keep certain records regarding large currency transactions.[4]

During the debate on expanding the Bank Secrecy Act, the association worked closely with the Congress, various

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[4]Chamness and Cook, A Guide to the Bank Secrecy Act (1987).

The entire banking industry is impressed at the diligent efforts of the Treasury Department at developing a system to handle all of the additional reports in a relatively timely manner. However, if you take into consideration the several new reporting requirements created in the last Congress as well as the use of the banking regulatory agency's criminal referral forms, there is an obvious need to sort out all of these requirements. No one in the government appears ready to accept the challenge of reducing unnecessary paperwork in the name of law enforcement.

regulatory agencies, the Treasury and others in devising workable methods to deter money laundering. In February of 1989, the American Bankers Association formally announced the creation of a task force on money laundering.

The ABA Money Laundering Task Force is comprised of leading banker experts on money laundering deterrence. Effective deterrence encompasses a knowledge of the Bank Secrecy Act, the applicable money laundering criminal statutes, as well as the right of financial privacy. The task force comments on legislative proposals designed to address the money laundering issue, monitors court cases involving the applicable criminal and civil statutes and continuing ABA's long-standing commitment to work with bank regulators to make compliance with the Bank Secrecy Act a top priority of the banking industry. We have included for your information a copy of this week's ABA Bankers Weekly that is dedicated to the issue of money laundering deterrence which ABA felt was so important that we mailed the edition to all members of the banking industry even those who do not belong to ABA. (Attachment)

Mr. Chairman, the banking industry has a solid history of alliance with law enforcement officials in efforts to deter money laundering. You are well aware of the dramatic success of "Operation Polarcap" and the critical role played

by Wells Fargo, and Bank of America employees who tipped off the government to unusual financial transactions.

However, there are numerous similar stories of cooperation between bankers and officials to detect and deter money laundering. In fact, Attorney General Richard Thornburgh has just recently singled out the banking industry for its tremendous work in this area. The Attorney General told an audience at the October 26, 1989 joint conference of the American Bankers Association-American Bar Association that the work of the Justice Department "has been immeasurably helped by your own increased attention to your obligations to report all financial transactions over $10,000 to Treasury. We are grateful for your diligence, which has aided us in catching these criminals. I recognize your sincere concern and commend your willingness to cooperate." It must also be emphasized that many of these cooperative activities are undertaken at great risk to the bankers who report individuals who may be members of drug cartels or some other facet of organized crime. We would like to mention a few of the highlights.

Puget Sound Bank (Tacoma, Washington)

In the appendix, we have included a letter from the Internal Revenue Service to a Puget Sound Bank officer recognizing

the outstanding work of a bank official in reporting suspicious currency transactions. (attachment) Puget Sound Bank's staff receives extensive training from both IRS and Customs agents on money laundering techniques and tactics. The information that the bank reported has been instrumental in apprehending major Columbian and Mexican drug dealers.

Chemical Bank (New York)

Many institutions also work with the Drug Enforcement Administration (DEA) and U.S. Treasury agents who conduct undercover operations inside banks by posing as bank employees. The recent successful extradition of Eduardo Martinez Romero, alleged money launderer for the Medellin drug cartel, that was aided by Chemical Bank is a good case in point. (attachment)

Bank of America

The former Deputy Assistant Secretary (Law Enforcement) for the Treasury Department told the House Banking Committee last year:

> We expect vigilance on the part of financial institutions to make timely reports of suspicious transactions. As you have heard us say many times,

> Treasury needs legitimate financial institutions to be partners with Federal law enforcement. Our message on this score has had very gratifying results with many banks and some securities brokers.

Treasury went on to explain:

> A case in point that you have read about recently was the recordbreaking drug seizure of 45 tons of marijuana and hashish on the barge Intrepid in San Francisco Bay. The seizure was a direct result of referrals of suspicious transactions to the Internal Revenue Service by the Bank of America and other banks. These reports prompted the Northwest Organized Crime Drug Enforcement Task Force to commence an investigation that led to the seizure of the barge.
>
> This case commenced when, on August 7, 1987, an unidentified man entered the North Napa Branch of the Bank of America and tried to deposit $12,000 in cash into the account of a Napa Valley mortgage institution. Bank officials explained that under the Federal 1986 Money Laundering Control Act, financial institutions are required to report any single deposit of $10,000 or more to the IRS. The man then reduced the amount of

> the deposit to $8,000, so that the report need not be filed. Later that day, the same individual returned with a check for $4,000 from another financial institution and deposited it into the Napa Valley Mortgage account. These events led the bank officials to believe that the individual may have been attempting to circumvent the reporting law. They then called the IRS... This is a stellar example of what can happen when financial institutions act in concert with law enforcement.[5]

Thus, in addition to the estimated six million Cash Transaction Reports filed with the Internal Revenue Service on routine cash transactions, the banking industry is responding to the need for active cooperation with the voluntary reporting of suspicious transactions.[6]

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[5]Statement of Gerald L. Hilsher before the Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, June 8, 1988. It should also be noted that in our own research supplied by law enforcement agents in the Northwest region, there has been an increase in suspicious transaction reporting from 300 in 1988 to 500 so far in 1989 and there are over 100 open cases, 25 civil or criminal prosecutions and three (3) Title 3 wire taps, all resulting from banker vigilance. Many of these tips in the Northwest have resulted in large seizures of cocaine, assault weapons, currency, and property. In fact, there has been a forfeiture of over $300,000 in the Seattle area alone during the first nine months of 1989.

[6]The following shows the increase in CTR filings from 1984 to 1988.

(Footnote Continued)

This number is stark contrast to the reports filed by trade or businesses (other than financial institutions) for currency transactions over $10,000. In 1988, only 20,000 such reports were filed. These private sector citizens need to increase their role in money laundering deterrence or all of our work will be for naught. It is encouraging that the Internal Revenue Service is now emphasizing reporting by those entities.

Signet Bank (Virginia)

An alert customer service representative (CSR) received a phone call from a local attorney who was a depositor, inquiring about the reporting threshold. The next day he began a series of currency deposits totaling $94,000 but never exceeding $10,000 on a single day.

Bank officials determined the currency deposits into an attorney's escrow account to be abnormal and, given the inquiry, suspicious. CID was notified and currency was held

(Footnote Continued)

YEAR	FILINGS	DOLLAR AMOUNT REPORTED
1984	704,521	$ 39,695,822,146.00
1985	1,847,859	78,225,644,407.00
1986	3,563,986	136,999,133,842.00
1987	4,905,867	208,555,516,059.00
1988	5,743,942	249,071,682,196.00

at the branch until a local law enforcement drug dog could be brought in. The currency tested positive for narcotics.

A search of the attorney's office produced records exposing a major rural narcotics distribution ring. Ensuing investigations and prosecution resulted in forfeitures of cash and real estate.

The narcotics dealer at the center of the ring was convicted in June 1989 under the "kingpin" statute. A real estate agent and the attorney were convicted of money laundering and a number of other individuals were convicted of a variety of crimes. (attachment)

ABA's Money Laundering Task Force Recommendations

As you know, Mr. Chairman, ABA's Money Laundering Task Force submitted a series of recommendations to William Bennett, Director, Office of National Drug Control Policy, on money laundering deterrence.[7] We are proud of our work in the area of hindering money launderers. There is, however, a need for consistency in supervision and regulation of the

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[7]As you pointed out, Mr. Chairman, when announcing our recommendations, "the ABA Task Force has responded...with a detailed set of recommendations, and has indicated its readiness to cooperate with the Federal government in the implementation of new initiatives." Cong. Rec. S.5555 (daily ed. May 18, 1989).

financial industry. This can only occur if the government and the banking industry understand their respective roles.

One way to do this is by educating the industry on the latest tactics and techniques utilized by money launderers.[8] Currently, the government often waits until there are a series of activities and then passes this information on to the industry in a rushed, sometimes makeshift manner. We do realize that this problem is more a result of diminishing resources and an increased workload than any intentional disregard for supplying financial institutions with immediate information.[9] However, it would be helpful if

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[8]Our association aggressively attempts to fill the education gap through publications that are frequently reviewed by the government. Our current inventory consists of the following:

An Analysis of the Bank Secrecy Act Regulations and the Money Laundering Control Act

Bank Secrecy Act Customer Information Pamphlet: "Facts You Should Know"

Criminal Referral Reporting (with diskette)

Currency Transaction Reporting: A Tutorial for Compliance

A Guide to the Bank Secrecy Act

Large Currency Transaction Reporting for Front-Line Personnel--ABA BancTraining

ABA Bank Compliance Magazine

[9]The Attorney General cogently made the case for more resources when he called the volume of CTRs "part of the problem, as well as the solution" to money laundering deterrence.

various banking and law enforcement agencies could immediately advise the banking community as to the latest money laundering trends, suspicious types of customers, and current illegal transactions so that the industry could put into effect the necessary safeguards to preclude such activities.

Communication must include all members of the law enforcement community, the regulators, and the industry itself. The Task Force recommends a formal dialogue between these crucial parties on a frequent basis to keep abreast of what is necessary to combat new types of activity.

Such communication (perhaps including an "advisory commission") would be similar to what the banking industry and the Inter Agency Bank Fraud Working Group have done in the bank fraud area. There, whenever the government or the industry has an issue of major concern to discuss, an informal meeting is held.[10]

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[10]The Honorable Reggie B. Walton, Associate Director for the White House Office of National Drug Control Policy agreed with the Commission concept. He told the ABA-ABA conference:

> "We look forward to working with you. I know that there's been a recommendation made to our office that we have a joint working relationship with the American Bankers Association and I think that we'll be looking favorably at that, because it is important that we work tohether; that we share information and that we hve a
>
> (Footnote Continued)

Such an advisory commission would provide an opportunity to share common concerns and questions by participants on how best to combat money laundering. The banking industry needs to know whether or not the "system works" and if our efforts in reporting are paying off. Therefore, we would suggest that the government and law enforcement officials quantify and report, on a regular basis, successful prosecutions resulting from the industry's voluntary reporting. Knowing that our reporting makes a difference will go a long way toward easing the frustration the bankers sometimes feel with respect to the millions of reports that are filed to aid law enforcement, but that seem to be infrequently used. We have discussed this with Treasury officials, and we believe we can work together to let bankers know better how the reports are being used.

Wire Transfers and the "Know Your Customer" Standard

The commercial banking industry has worked toward virtually eliminating money laundering by cash or currency. However, the trail of illicit profits is hard, if not impossible, to

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(Footnote Continued)
common understanding as to how we seek to try and deal with this problem. I don't think it does the county any good for the government to act in isolation and not act in concert, or at least in discussions, with financail institutions so that you know where we're coming from and we know where you're coming from. I think that type of cooperation is healthy."

follow if done through the use of wire transfers. In 1988, the Clearing House Interbank Payments System (CHIPS), processed 33.9 million international transfers with an aggregate value of $165 trillion. This volume makes it clear that the Federal cash reporting requirements could not be applied to wire transfers.

The Treasury Department has attempted to aid the banks by issuing an "Advisory Concerning Wire Transfers." This advisory presented some examples of suspicious wire transactions. The ABA has urged financial institutions to adopt this advisory into their compliance program. Financial institutions have implemented the advisory, but the key reporting goal is the time-honored "know your customer" standard.

It is apparent to most of us in the financial industry who are involved with transaction tracking that the serious money now moves by wire transmission if it escapes scrutiny when it first enters the system in cash. Although a wire transaction is subject to a Criminal Referral Form (CRF) report if it is determined to be "suspicious," the nature of the transaction makes it difficult, if not impossible, to analyze for laundering potential. Where the transaction involves currency or other monetary instruments, the banks have voluminous requirements and have driven away money launderers. Therefore, wire transactions have emerged as

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the primary method by which high volume launderers ply their trade because of their use in the international community. This is true because cash often enters a foreign unregulated banking system and first enters the United States in the form of electronic message or "wire" which is simply an order to send a specific amount from Bank A to Bank B.

The emphasis must shift, in a logical and reasonable manner, from currency transaction tracking to "know your customer" in all facets of transactions. A reasonable approach to the problem can only be accomplished by the concentrated cooperation of the government and the financial services industry. The Treasury Department has just issued an advance notice of rulemaking on wire transfers. Our industry welcomes the opportunity to work together with the Treasury on this complex issue.

ABA's Money Laundering Task Force, and the industry in general, recommend that financial institutions base their regulatory compliance on "know your customer." This means activities such as verifying the business of a new account holder and reporting activity in an account that is disproportionate to that customer's known business. Immediate reaction to unusual transaction activity should be the goal for all banking institutions. Identification procedures beyond the regulatory minimum should be considered to include situations such as verifying whether a

document for identification that is seemingly altered is genuine. With these several concepts in play, individuals will find it increasingly difficult to deliberately utilize a financial institution for illegal purposes.

Financial institutions already have a well known "know your customer" standard that does ensure compliance with both the Money Laundering Control Act and the Bank Secrecy Act. While we may not always agree as to what constitutes "know your customer," it is important that this concept be advanced within the industry. During last week's conference, we had several panels dedicated to suspicious transactions in wire and cash transactions. A "know your customer" standard will preclude any need to focus on routine wire transfer reporting because the standard will be effective for all kinds of transactions.

Evaluation of Current Reward Provisions

Section 5323 of Title 31 outlines the procedure for the payment of "... a reward to an individual who provides original information which leads to the recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000 for a violation of (Chapter 53)." This Section was enacted in 1984, yet we are unaware of even a single case where such a reward has been paid to a bank. Unofficially, I understand that no procedure has been established and no

funds have been appropriated by the Secretary of the Treasury as authorized by Section 5323 (d).

ABA has found through recent schools, conferences and other contacts with bankers throughout the country that there is a uniform lack of awareness of the reward process. Yet, bankers continue to provide tips which are leading to successful investigations. Occasionally, large sums of currency, real estate, automobiles and other property are seized by IRS agents as a part of these investigations.

These tips result from alert employees who have received extensive training on BSA and money laundering prevention and from computerized systems which scan daily cash transactions to identify suspicious activity. The cost of training and automated control systems is a major portion of the total cost of BSA to the industry. The possibility of recovery of a portion of this outlay through rewards is welcome news.

ABA strongly supports a system of rewards which will reimburse banks for some of the costs they have borne quietly for almost two decades. To be effective, the system should be simple and certain. We recommend the following features:

- The $150,000 ceiling imposed by Section 5323(b) should be eliminated. If banks' tips break a BIG case, they should get a BIG share of the spoils.

- A minimum reward should be established. Whenever there is a conviction relating to money laundering, whether or not there are large net seizures, the bank providing information should receive a portion of that amount. A modest amount (say $5,000 to $10,000) would serve to reinforce the message that banks must be involved in the war on illegal cash. This reduction in the threshold of reward participation would be particularly helpful to smaller financial institutions.

- Institutions receiving rewards should be encouraged to share rewards with employees who initially detected the suspicious activity.

- "Criminal Referral Forms" currently required by banking supervisory agency regulations should serve as both written notice of a money laundering crime and application for a reward. Additional paperwork should not be necessary.

- Procedures should be developed by IRS for acknowledgement of applications for reward and timely processing of the claim. Included would be the

requirement of a written response and payment of the $5,000 to $10,000 "finder's fee" to the reporting bank within one year of the filing of the request for the reward. This response should state whether or not the information provided had proven useful in an investigation and state the amount of money or other property seized.

This is by no means the final word on this important subject. It could be taken up for refinement by the industry/government working group also under consideration.

Need For International Cooperation

In December, 1988, the Basle Committee on Banking Regulation and Supervisory Practices issued a Statement of Principles on money laundering. This Committee is well aware of the ground-breaking nature of such a statement, as is the international banking community. The American Bankers Association has agreed to endorse the principles embodied in that document and we have recommended the same course of action to our international counterparts. We believe that this endorsement is simply a formal acknowledgement of what we have all believed: that money laundering is a "borderless issue" and mandates total global commitment. This is a good first step, but the principles must be

supported by binding laws and regulations to be effective. The ABA supports the need for the international community to enact laws similar to U.S. money laundering laws so we can work together to make financial institutions universally dangerous places for launderers.

Legislative Approaches to Money Laundering

After several major drug bills and a myriad of statutes designed to criminalize money laundering, in our opinion, there is no need at this time for any new legislation.

However, one initiative that does bear discussing is the proposal by Senator Kerry to create an Anti-Money Laundering Advisory Commission (S. 1476).

Since Congress has addressed the money laundering issue by the passage of two major drug bills in 1986 and 1988, (which included the creation of criminal statutes prohibiting money laundering both domestically and internationally), now is the time to get experts in the field of money laundering deterrence to review those laws and advise those in charge of enforcing the law.

As Senator Kerry has indicated, an Anti-Money Laundering Advisory Commission would accomplish several goals. First,

it would tap individuals "with demonstrated expertise" in the prevention of money laundering. Law enforcement, federal regulatory agencies, the financial industry, and other members of the private sector would be able to work out proposals designed to eliminate money laundering prior to their implementation. Thus, the complexities of the financial industry would be carefully considered and balanced against the needs of the government to have as many tools as possible to combat laundering.

Secondly, this commission would greatly aid the charge given to the Director of National Drug Control Policy by the Congress by focusing on one area of the drug war and enabling the Director of the Office of National Drug Control Policy to continue to address the overall policy of eliminating drug use. In fact, the idea of a commission has been picked up in the President's Plan. The creation of his "Financial Targeting Group" (FTG) would also help establish a forum for the private sector.[11]

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[11]The Bush Plan describes the FTG as:

> ONDCP will establish and chair a multi-agency Financial Targeting Group (FTG) which will recommend broad financial policies and strategies as well as monitor and coordinate related Federal programs and efforts.
>
> The FTG will also oversee the activities of a multi-agency Financial Analysis and Coordination Group (FACG), which will be established to deal with all program activity related to the identification,

(Footnote Continued)

This proposal is efficient, noncontroversial and should be promptly adopted in some form.

A Statement of Principles for the Elimination of Money Laundering

Mr. Chairman, the ABA would like to take this opportunity to reiterate our Statement of Principles (attached), announced in September, for the elimination of money laundering. We have contacted other financial institution trade associations to enlist their support in our efforts to completely shut down our financial institutions to drug dealers.

ABA is proud to continue to accept the Attorney General's challenge to eliminate money laundering. We applaud his clarion call: "You, as leaders of the banking industry, have the opportunity--even, I suggest, the honor--to be among the very first who can really help us close them down, for good and all."

(Footnote Continued)
tracing, freezing, seizing, and confiscation of proceeds generated from criminal activities. The FACG will be directed by the Treasury Department.

The Financial Targeting Group established under and chaired by ONDCP will have an advisory board composed of representatives from both government and non-government entities with responsibilities or expertise in international financial activities.

We thank you for the opportunity to comment on this critical problem and I would be happy to answer any questions you might have.

SPECIAL REPORT ON MONEY LAUNDERING:

The banking industry's response

ABA educates bankers, legislators on money laundering

By Mark J. Burnett

The notion that, decade after decade, there has been a nation's concern at all levels of government, from local town halls to the White House.

Unfortunately, one key element is missing: action has been the use of our nation's financial institutions to launder drug proceeds.

ABA has been in the forefront of the effort to educate the banking community about this problem. The association also is working closely with Congress and federal regulatory agencies to come up with meaningful ways to curtail money-laundering activities that take advantage of the banking system.

In February, ABA created the Money Laundering Task Force, comprised of leading bankers experts on money-laundering deterrence. Chaired by Earl H. Hadlow, vice chairman, legal and regulatory, Barnett Banks of Florida, Jacksonville, Fla., the task force regularly advises on legislative proposals designed to address the issues confronting banks. The task force also monitors money-laundering cases and developments and coordinates ABA's participation in criminal and civil cases.

ABA has been working closely with lawmakers and regulators to establish an advisory panel through which banking and government can reach their common goal — the detection and eventual elimination of all money-laundering operations.

A bill introduced by Sen. John Kerry (D-Mass.), chairman of the Committee on Foreign Relations Subcommittee on Terrorism, Narcotics and International Operations, would establish an Anti-Money Laundering Advisory Commission that would include federal regulators, law-enforcement officials, the Internal Revenue Service and representatives from the private sector.

The measure (S. 1470) has received the endorsement of ABA, which has long supported creation of such an advisory group. A similar ABA proposal also was included in President Bush's sweeping anti-drug proposal unveiled earlier this year.

Hadlow, who testified before Kerry's subcommittee Sept. 27, announced ABA's Statement of Principles for combatting money laundering and urged closer cooperation between bankers and the government. ABA will testify Nov. 1 before the Senate Banking Committee's Consumer and Regulatory Affairs Subcommittee, which is looking into domestic money-laundering activities.

On another front, the Treasury Department is planning an advance notice of rulemaking on wire-transfer reporting. Treasury also is considering asking target institutions to file Currency Transaction Reports on magnetic tape, a move that could cost affected institutions about $50,000 each for new reporting systems, said John Byrne, ABA's senior legislative counsel and staff liaison to the task force.

ABA has been closely monitoring these proposals and has regularly met with Treasury officials on these and other issues related to transaction-reporting requirements, Byrne said.

Byrne, who has been with ABA six years, has represented the association on several television news programs, including ABC's "Good Morning America," the Financial News Network and Cable News Network. Byrne also has represented the banking industry in several radio and newspaper reports on the money-laundering issue.

After enactment of the 1986 Money Laundering Control Act, ABA put on 17 regional seminars for more than 3,000 bankers. The association recently completed another series of educational seminars on the Bank Secrecy Act, with 23 state associations at 27 sites. In total, ABA has helped train more than 12,000 bankers at various conferences on anti-money-laundering laws and thousands more through the association's publications and videotapes.

ABA's statement of principles

ABA has taken a leading role in working with regulators, the Treasury Department and Congress in developing workable responses to the money-laundering problem.

As part of this effort, ABA has developed a statement of principles. This statement is designed to urge all financial institutions to work aggressively to combat money laundering. It is critical that all members of the U.S. financial services work together with law-enforcement officials, regulators, the Bush Administration and Congress to prevent the U.S. financial system from being used to launder the profits of illegal-drug trafficking.

The ABA principles are:

- U.S. financial institutions should continue to be at the forefront of efforts to combat the laundering of profits from illegal-drug trafficking.
- U.S. financial institutions should comply fully with all laws and regulations relating to money laundering. Employees of these financial institutions should be trained in the rules applicable to reporting of transactions and to identify possible money-laundering schemes. The management of all financial institutions should educate strong support for employee efforts to combat money laundering.
- The employees of financial institutions should report suspicious transactions or other activities to authorities when there is sufficient reason to believe that illegal activities may be taking place, consistent with basic principles of customer privacy.
- Financial institutions and their employees should work actively with law enforcement authorities when those authorities request their assistance in investigations of money laundering.
- Financial institutions should work with governmental institutions to develop new methods to effectively combat money laundering.
- U.S. financial institutions should work through their trade associations to encourage international cooperation and agreement on cross-border efforts to combat money laundering.

Government lacks proper resources, task force discovers

By Pat Maer

The banking industry worries that the federal government is moving too fast.

While the industry has spent millions of dollars to comply with the 1970 Bank Secrecy Act, the government has cut its law-enforcement workforce to the bone.

Earl Hadlow, chairman of ABA's Money Laundering Task Force, points out that banks are expected to file more than 6 million Currency Transaction Reports with the Internal Revenue Service in 1990 — up from 'almost' only five years ago.

Banks submit CTRs to an IRS center in Detroit when an individual transaction totals more than $10,000 (See related story).

"I know many of those millions of CTRs are wasted." If we continue to pump out more information, who is going to conduct the investigations? We don't know," said Insley, who noted that ABA will seek answers at future congressional hearings on money laundering.

"We are spending significant amounts of money without judging very well where the money should be spent in the war on drugs. That's what I'd like to see the task force do," said Insley, who also is vice president of Signet Bank in Richmond, Va.

The wire transfer of huge sums of drug money into the United States is another concern of the task force.

"We are trying to address this problem," said D. Gordon Murphy, executive vice president of the Arizona Bankers Association.

In the past year, law-enforcement agencies have discovered sophisticated money-laundering schemes in Arizona called "Casas de Cambios," which means "houses of money exchanges."

Their primary function is to provide a money-changing service for Mexican pesos into U.S. dollars. The federal CTRs reflect only the name of a Casa de Cambio as the owner of the currency and not the drug dealer.

"If you can get on a plane with a suitcase full of money, then wire it back, how do you address that problem?" asked Sarah Elizabeth Jones, vice president of First American Corp., Nashville, Tenn.

"You must protect the customer's privacy," said Jones, who also is on the ABA task force. "If you had to file a piece of paper on every wire transfer through the system, commerce would come to a halt."

Where to get help

ABA is in the forefront of the effort to educate the industry about money-laundering activities.

Several ABA publications and training tapes on this subject are available. They include:

- "An Analysis of the Bank Secrecy Act Regulations and the Money Laundering Control Act."
- Bank Secrecy Act Customer Information Pamphlet: "Facts You Should Know."
- "Criminal Referral Reporting" (with diskette).
- "A Guide to the Bank Secrecy Act."
- "Large Currency Transaction Reporting for Front-Line Personnel."
- ABA Bank Compliance Magazine.

To order any of these ABA products, call ABA's Chris Kelly at (202) 663-5267.

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BANKS' RESPONSE TO MONEY LAUNDERING

History of Currency Transaction Reports

1970: Enactment of the Currency and Foreign Transactions Reporting Act (P.L. 91-508), better known as the Bank Secrecy Act. Congress found "that adequate records maintained by insured banks have a high degree of usefulness in criminal, tax and regulatory investigations and proceedings."

1972: Final regulations established the Currency Transaction Report (Form 4789), replacing Form TCR-1 and requiring filing for transactions occurring on or after July 1, 1972, within fifteen days following a transaction.

1975: 1,418 CTRs filed.

1977: First financial institution fined for BSA violations.

1978: Enactment of the Right to Financial Privacy Act.

1980: CTRs must be filed within 15 days of the transaction. Treasury launches Operation Greenback, a major initiative to combat money laundering in the Florida region, using the tools provided by the Bank Secrecy Act and other criminal statutes. Greenback produced 255 indictments and 169 convictions for currency violations during its first year term. Its success spawned 40 additional Treasury financial task forces, which are now located across the country.

1983: 513,782 CTRs filed.

1984: Enactment of the Comprehensive Crime Control Act (P.L. 98-473), which increased penalties for violations of BSA.

1985: Hearings begin on money-laundering legislation and the Bank of Boston case.

1986: Over-the-counter CTR reward. The Money Laundering Control Act (P.L. 99-570) was signed into law on Oct. 27, 1986, making the act of money laundering a federal crime. The act also criminalized the offense of "structuring" or "smurfing" transactions to avoid reporting.

1988: Enactment of the 1988 Anti-Drug Abuse Act (P.L. 100-690), which requires Treasury to effect regulations on identification for cash purchases of more than $3,000 of certain monetary instruments and the targeting of geographic areas to require a reduction in the $10,000 threshold.
5.8 million CTRs filed.

1989: New CTR announced. Final rule on geographic targeting. Operation Polarcap a success due to bankers' involvement. Continued congressional hearings on money-laundering deterrence.
6.2 million filed CTRs projected.

1990: New CTR to be used.

CTRs flood IRS processing center

By Mark J. Bumeko

Each day, more than 17,000 Currency Transaction Reports are sent to the Internal Revenue Service's Data Center in Detroit.

Once inside the center's five-story, downtown office building, the reports are subjected to computer analysis and the scrutiny of hundreds of specialists who review them for accuracy and completeness.

"What happens there in the processing end is more than just the processing; it's a review of the process itself," said Brian M. Bruh, deputy assistant commissioner of IRS's Criminal Investigations Division.

Reviewers at the Data Center — which employs about 1,900 people — first look for discrepancies in the CTR forms that can be corrected by the filing institution, which is asked to furnish as much accurate information as possible, Bruh said.

From there, the data on the forms is transferred to magnetic tape, with a copy for the U.S. Customs Service and IRS. Special agents and analysts examine the information on the tapes for indications of money-laundering, tax-evasion or embezzlement activities.

"As long as it's a money-type crime, we're interested in it and we'll pursue it," Bruh said.

IRS considers its review process "current" if the forms are examined within 30 days of arrival. Bruh said the center has remained current on CTR filings, except for a brief time when the turnaround period was 33 days.

"Several years ago, we had a problem of tremendous backlogs," Bruh said. "But now, the IRS is investing some effort in the capacity."

Bruh acknowledged that there are skeptics questioning the agency's ability to use the huge amounts of information coming into the Data Center. Nonetheless, the job gets done, he said.

"They can't picture that we're going to receive 6.2 million forms every year," he said. "And that anybody could receive all those forms and get it processed timely and be able to make use of it. The answer is, we're doing it."

New bureau targets international scene

By Pat Maio

The Treasury Department has found a new way to sniff out money-laundering activities — not with dogs, but with sophisticated electronic wizardries.

If everything goes according to plan, the agency will announce early this month the secret location for an intelligence-gathering center in Northern Virginia.

Called the Financial Crimes Enforcement Network, the center will rely on the military's supersecret National Security Agency and other federal agencies to collect information on money-laundering activities around the world.

The Treasury Department, working through the State Department, is negotiating treaties with other countries to join in the center's single-purpose mission.

A report on the status of those negotiations will be delivered by Nov. 18 to Sen. John Kerry (D-Mass.), chairman of the Senate Foreign Relations Committee's Terrorism, Narcotics and International Operations Subcommittee.

Salvatore R. Martoche, assistant secretary of Treasury in charge of enforcement, described the center as "an all-source, anti-money-laundering intelligence, analysis and targeting bureau."

It also will serve as the focal point for sharing money-laundering data from federal law-enforcement and regulatory agencies, state and local governments, foreign governments and financial institutions.

Treasury officials had considered other locations for the center before deciding on Northern Virginia.

A new CTR form that goes into effect beginning next year is expected to make it easier to spot suspicious activities with the center. The new form includes a "suspicious transaction" box that can be checked, eliminating the need for banks to file a separate criminal-referral form.

Transaction reports supply key data for investigations

By Mark J. Bumeko

Currency Transaction Reports, once used by federal agents solely to verify existing money-laundering evidence, have become increasingly important in unlocking the doors to illegal operations.

From 1986 to the present, the Internal Revenue Service has opened up 400 cases based solely on information gathered from CTRs, said Brian Bruh, deputy assistant commissioner of IRS's Criminal Investigations Division.

Ninety-eight of those cases were initiated by the U.S. Customs Service, with the remaining 302 cases opened as a result of IRS's own analysis, he said.

With the agency's improved analysis techniques, CTR data is becoming increasingly valuable, Bruh said in a telephone interview with ABA Bankers Weekly last week.

For example, in 1986 IRS opened up 68 cases cases using CTR information alone; 73 cases in 1987; and 162 cases in 1988. "We are getting better and better at using the data," he said.

Law enforcement also is getting a boost from banks' increased filings of "suspicious transaction" reports in recent years, Bruh said. These reports allow banks to tip off federal officials to suspicious activities such as customers' limiting the amount of individual transactions to avoid CTR requirements — a technique called smurfing — and the use of aliases and falsified identification. About 5,700 such reports have been filed so far this year, Bruh said.

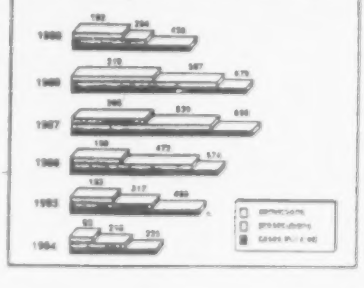
It is difficult to say with certainty whether money-laundering activities are decreasing as a result of transaction reporting, Bruh conceded. However, CTRs, suspicious-transaction reports and bankers' increasing vigilance in denying money-launderers access to their institutions "has helped a great deal," Bruh said.

The key is in finding the best way to use the raw data, Bruh admitted. "It's such a wealth of information, I don't know that we'll ever be able to use it perfectly," he said.

"Are we going to get better? Sure," Bruh said. "We're going to have better and better capabilities of finding those individuals and illegal organizations."

Money-laundering enforcement

IRS statistics on convictions, prosecutions



BANKS' RESPONSE TO MONEY LAUNDERING

On the front line

Tellers stay alert

Puget Sound Bank of Tacoma, Wash., cannot say enough about its tellers.

After noticing the purchase of four $9,000 cashier's checks at different branches over a three-day period, alert tellers reported the suspicious transactions to the Internal Revenue Service.

The agents later documented cashiers' expenditures in excess of $500,000 by two subjects. The two were eventually indicted and arrested on conspiracy, money laundering and firearms offenses.

In yet another investigation, a teller attending a training session with employees from other banks learned that one of her customers was conducting suspicious currency transactions at several banks.

IRS later confirmed that 17 cashier's checks totaling $110,000 had been purchased and were used to buy Lake-view property by the customer. Cocaine was found in a related search for evidence.

Banks aid agents

Chemical Bank turned the heat on Colombian Eduardo Martinez Romero, an alleged money-launderer for the Medellin drug cartel.

The big New York-based bank worked with agents of the Drug Enforcement Administration and Treasury Department to gather evidence on Romero.

In court documents filed in Atlanta, agents conducted undercover operations in Chemical Bank and other institutions by posing as employees.

Evidence gathered in the case was used to gain the successful extradition of Romero. The Medellin cartel allegedly laundered illegal-drug profits through banks in Panama and in Atlanta, Los Angeles and New York.

Citizens and Southern National Bank, Atlanta, also helped U.S. agents infiltrate the drug cartel.

The investigation was part of the government's "Polar Cap" operation, a broad investigation into drug-related money laundering.

Tip stops delivery

Bank of America tipped federal agents to suspicious transactions that led to the seizure of 45 tons of marijuana and hashish on a barge in San Francisco Bay.

The marijuana seizure was the largest in history.

The case began when an unidentified customer entered the North Napa Branch of the San Francisco-based bank and tried to deposit $12,000 into the account of a Napa Valley mortgage institution.

Bank officials explained that under the 1986 Money Laundering Control Act, financial institutions are required to report any deposit of $10,000 or more to the Internal Revenue Service.

So the customer deposited $8,000 immediately and added another $4,000 deposit later that day into the same account.

The bank then reported the suspicious transactions to IRS and Northwest Organized Crime Drug Enforcement Task Force.

Query draws heat

An attorney's call to a customer service representative with Signet Bank in Virginia began innocently enough.

But when the questions turned to the threshold level for currency-transaction reporting, the employee alertly notified her boss.

The day after the telephone inquiry, the attorney began a series of deposits totaling $94,000, but never exceeding the $10,000 per-day reporting threshold.

Bank officials alerted law-enforcement authorities of the cash deposits, which also carried traces of narcotics that had rubbed off on the money.

A search of the attorney's office produced records exposing a major rural narcotics-distribution ring.

Ensuing investigations and prosecution resulted in forfeitures of cash and real estate.

— *By Pat Maio*

Task-force chief sees drug problem from street level

By Pat Maio

Earl Hadlow does not know how to buy drugs.

But the banking industry's chief spokesman on money-laundering issues got a few tips when he traded in his pin-striped suit for a bulletproof vest.

With the vest on, Hadlow went in search of a drug buy with detectives from the Jacksonville, Fla., police department.

They paraded through residential neighborhoods in a caravan of junk cars, stopping at dimly lit street corners to coyly inquire about crack, a bone white, macadamia nut-sized narcotic.

A pair of detectives leading the foray through a maze of back streets and alleys found paydirt on their first stop.

With the citizen's band radio turned on, Hadlow sat on the edge of the back seat of one of the trailing cars, listening to a drug buy going down several blocks away.

A female detective rolled down the window to her car, started a casual conversation with a dishevelled-looking youth. After winning his confidence, she tugged at his shoulder, seeking some crack to smoke.

The youth fidgeted around nervously, pushed his hands in his pockets, pulled out a small cube of the drug. The lady slapped a $20 bill into the palm of his hand.

Suddenly, three cars in the caravan careened around the corner and screeched to a halt in front of the transaction.

Hadlow's head flung forward, his eyes perched on "greyhound" detectives who jumped from their car to nab the dealer.

"They are as fast as wide receivers in the NFL," recalled Hadlow, a vice chairman and general counsel of Barnett Banks Inc. of Jacksonville. "It was a blood-curdling sight.

"This is a very pervasive problem," Hadlow said. "It showed me that this sort of thing is done as routinely as selling soda from a Coca Cola stand on the corner."

Hadlow and other business leaders have regularly watched similar drug raids as part of a statewide effort to raise lobbying money for tougher drug-enforcement laws.

Thornburgh wants international action

U.S. financial institutions will have to take a greater role in shutting off the worldwide flow of illegal-drug money, U.S. Attorney General Richard Thornburgh said.

Thornburgh, who addressed ABA's anti-money-laundering conference Thursday in New York, praised banks for their "diligence" in complying with money-laundering laws.

However, cooperation between law enforcement and U.S. banks must expand to international banks as well, he said.

"That means that much of the first burden will fall upon you," Thornburgh told the bankers. "In this country, under drug siege, we have the strongest motivation for sacrificing a certain measure of bank privacy . . . to bring international money-launderers to justice. You are the ones who are most involved, but the sacrifice is in everybody's interest, including your own."

Thornburgh called on banking to take part in "the opportunity . . . to be among the very first who can really help us close [drug dealers] down for good and all."

Banks expect to file 6 million CTRs

By Mark J. Burnicko

More than 6 million currency-transaction reports will be filed this year, six times the number filed five years ago, according to Internal Revenue Service statistics.

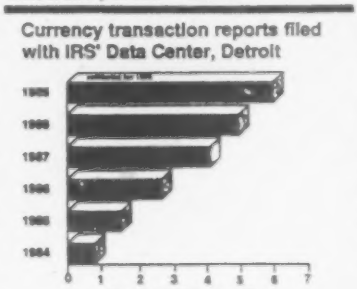
Nearly 583,000 CTRs were filed in the first three months of this year, the most recent period for which complete IRS data is available. This year's first-quarter reports document more than $32.5 billion worth of individual transactions of $10,000 or greater, as required by the Bank Secrecy Act. Last year, IRS received a record 5.7 million reports, documenting nearly $250 billion in transactions.

CTRs are having a decided effect on curtailing money-laundering activities and putting criminals behind bars, federal authorities said. According to IRS statistics, 335 money-laundering investigations were initiated by the U.S. Justice Department in 1984, 93 of which eventually led to convictions. Last year, 679 money-laundering cases were filed, 319 of which led to convictions.

"The government has made substantial use of the Bank Secrecy Act to prosecute a number of leading money launderers in the United States and abroad," said Julie Stanton, BSA supervisory compliance specialist with the Treasury Department's Office of Financial Enforcement. "In recent years, for example, the government has successfully prosecuted well over $650 million in money-laundering cases."

Another, increasingly important weapon in the fight against money laundering is suspicious-transaction reports filed by financial institutions. This document is used to identify transactions, or attempted transactions, that appear to be out of the ordinary from the customer's normal banking activity or transactions that fit a recognized profile for money-laundering schemes.

As of Aug. 30, IRS received 5,700 suspicious-transaction reports. Authorities acknowledged that the number of suspicious-transaction reports is increasing as banks get better at identifying money-laundering activities.



Section II, Page 4 ABA Bankers Weekly October 31, 1989

BANKS' RESPONSE TO MONEY LAUNDERING

Violations mean heavy fines, closer look at entire bank

By Mark J. Burneko

Violations of money-laundering reporting rules can cost plenty in fines — and could open the door to closer scrutiny of a bank's entire operation.

Financial institutions face penalties of up to $10,000 a day for each violation of the Bank Secrecy Act's reporting requirements. That does not include even stiffer civil penalties — ranging from $5,000 to as much as $1 million per day — that regulators can levy under the Financial Institutions Reform, Recovery and Enforcement Act.

Improper completion of a Currency Transaction Report — although likely to be considered a "technical violation" — is the most frequently cited problem regarding reporting compliance under the Bank Secrecy Act, according to Treasury Department officials.

The most common problems occurs when the reports are partially or entirely illegible, but there are several other errors that often crop up in CTRs. Here are a few to watch for:

• **Address information.** Customer addresses must include a street name and house or apartment number. A post office box number is not acceptable. However, postal numbers assigned to customers who live on rural-delivery routes are acceptable.

• **Occupation information.** A customer's occupation must be specifically described. Such descriptions as "salesman," "merchant" or "self employed" are not acceptable.

• **Method of identification.** Entries such as "known customer," "signature card" and "visual verification" are not acceptable methods for verifying the identity of a person conducting a reportable transaction. The bank must record information describing a written identification document, such as a driver's license. In the case of established customers, the bank may use information pertaining to an identification document previously obtained from the customer and then placed in the bank's records.

• **Customer accounts affected by transaction.** In many cases, Part III of the CTR is completed for circumstances that do not require recording a customer's account information. Under the current instructions for completing CTRs, Part III information is provided only when the reporting transaction affects the customer's account balance. If the transaction does not change the account balance — such as the purchase of a cashier's check with cash or cashing a check that is not drawn on the customer's account — Part III should be left blank.

• **Purchasing checks.** When an official check — such as a cashier's check, association check, teller's check or money order — is purchased, many financial institutions neglect to complete the required information, or the err by recording the name of the institution as the drawer of the check. When an official check of more than $10,000 is purchased, the financial institution has to record the name of the person present who is actually purchasing the check, regardless of whether the check is for that person or someone else.

• **Cashing checks.** Two errors frequently crop up when reporting check transactions. The first is checking the "check cashed" box, but failing to complete the rest of the items. The second common error occurs when a person cashes one or more checks that are drawn on his or her own account. For CTR purposes, this type of transaction is considered a withdrawal from the customer's checking account.

• **Bank code.** Many financial institutions fail to note their bank code in Part V of the CTR form. Codes in use are: Code 1, Comptroller of the Currency; Code 2, FDIC; Code 3, Federal Reserve; Code 4, none of the above.

Drug dealers find BADD bankers fight back in Florida

By Susan A. Barbara

Florida bankers are mad about use of their banks as laundering facilities for drug money and they are doing something about it.

The Florida Bankers Association has formed a "BADD" group — Bankers Against Drug Dealers.

The group has published an educational pamphlet outlining money-laundering schemes and explaining warning signs banks should look for in tracking down illegal-drug traffickers.

"Historically, law enforcement attacked drug rings by going after the drugs and people who sold them," the pamphlet said. The solution now is to put drug money launderers and drug traffickers out of business.

The theory is simple — if they can't launder the money, the intricate, illegitimate cash flow will be cut off," BADD's pamphlet said.

B.A.D.D.
Bankers Against Drug Dealers

"The theory is simple — if they can't launder the money, the intricate, illegitimate cash flow will be cut off."

An example of a $100,000 drug transaction — from the original sale for cash to the laundering of the money through several banks is detailed so bankers can see where their bank may be targeted in an illegal-drug activity.

The pamphlet also covers certain laws related to criminal activities where banks are involved, including the Currency and Foreign Transactions Reporting Act and the Bank Secrecy Act.

Banks' recordkeeping requirements such as maintenance and reporting of taxpayer identification numbers within 45 days after the opening of an account, are also covered in the pamphlet. Other records banks must keep are a copy or reproduction of most demand deposit or savings account records and funds transfers or receipts, the pamphlet said.

Warning signs of illegal activity can be spotted from the time a customer opens a new account, the pamphlet said.

The pamphlet outlined these behaviors customer-service representatives should look for:

• Lack of sufficient pieces of identification.

• The customer lives and works on one side of town and is opening an account on the opposite side of town.

• The customer wants his new checks, deposit slips and statements sent to a post-office box.

• The customer is an older person having a relatively high Social Security number or vice versa.

Although Floridians — banks, businesses and citizens — are under threat of illegal-drug trafficking on a daily basis, money laundering is a national and surely an international concern, FBA said.

No money, staff for investigations

The Internal Revenue Service is wringing its hands over the money-laundering issue.

The problem: no money, to lure special investigators. And even if the money did come, IRS has a hiring freeze.

"We've got to get people on board now," said Michael McDonald, IRS's group manager of Operation Greenback, a Miami-based money-laundering investigation unit.

The money-laundering issue has changed significantly since the unit was formed a decade ago, McDonald said.

The big difference is the addition of "suspicious currency transaction reports," he said. The reports created an entirely new workload for the unit: tax-evasion cases.

"We are getting a lot more data, and seeing more schemes. So where are we going to get the agents to work those cases?" McDonald queried.

He pointed out that Congress has apparently overlooked IRS's efforts to fight money laundering. The 1988 Anti-Drug Abuse Act gave money to federal agencies — with the exception of IRS.

IRS has recognized its staffing problems in this area. From 1984 to present, the agency has grown from 92 special agents assigned to money laundering to 450, said IRS spokesman Steve Pyrek.

While the biggest spate of growth occurred from 1988 to 1989 — a 46 percent increase in staff — don't expect further increases, Pyrek said.

— By Pat Maio

Former investigator advises banks to properly train staff

By Mark J. Burneko

The hallmark of any successful money-laundering operation is its ability to adapt. What works one day may have to be scrapped for a new scheme the next.

The constant is in the process itself. Huge amounts of currency must change hands several times and be siphoned through a network of businesses, financial institutions and countries.

For criminals, the trick is in keeping the entire process underground. For banks, the trick is in knowing how to spot that type of activity when it occurs.

"It's a matter of training and knowing your customers," said Charles H. Morely, a private consultant who served more than four years as chief investigator for the U.S. Senate Permanent Subcommittee on Investigations.

Morely, who served 11 years as an IRS criminal-investigations special agent and now advises financial-service organizations as well as law-enforcement agencies, has produced a series of anti-money-laundering videotapes that are available through ABA.

The most recent edition to his "Dirty Money" series of training tapes is titled, "What the Feds Are Looking For (And How to Find it First)." The tape depicts many of the characteristics money-laundering operations have in common. They include:

• **Smurfing.** The most obvious suspicious transactions involve currency transactions below $10,000, structured to avoid reporting requirements.

• **Check purchases.** Another common smurfing technique is purchasing bank checks, travelers' checks or money orders in amounts just less than $10,000.

• **Structured payments.** In some cases, repayments of loans in currency, with cash payments spread over several days and each kept less than $10,000.

• **Unusual activity.** Identifying this symptom requires a knowledge of the customer's account history. Any large currency transactions that do not fit the pattern of the account should be considered suspect.

• **Increased cash shipments.** A sudden increase in currency shipments from branches to the central vault, correspondent bank or the Fed that is not also accompanied by a corresponding increase in the number of cash accounts may indicate unusual currency transactions at the branch.

Tips from Tellers Help Officials Bust Drug Ring

By REBECCA COX

NEW YORK — In a textbook example of how the banking industry is being enlisted in the drug fight, banks in Ohio, Pennsylvania, and West Virginia played a key role in several recent federal court convictions for drug sales and money laundering.

Law-enforcement officials are praising the banks – and particularly their tellers – for spotting suspicious cash transactions and reporting them to the Internal Revenue Service. The evidence led investigators to a drug ring whose leader was sentenced to 21 years and four months in prison for smuggling more than $4.5 million worth of heroin from Lebanon and laundering the proceeds.

The investigation illustrates the increasing scrutiny that bankers are be-

Tips from Tellers Lead to Drug-Ring Convictions

▸ Continued from Page 1

ing asked to give to large currency transactions, with tellers on the front lines. Although the tellers involved in this investigation did not want their names publicized, they are being hailed as heroes, or heroines.

"That's really how [the investigation] started," said Daniel Hanlon, Internal Revenue Service agent involved in the case. "People in these banks were aware of what we were trying to do. felt the activity was suspicious, and notified us."

6 Traffickers Convicted

The investigation, which began in 1987, resulted in the conviction of six drug traffickers in recent weeks. The crimes took place between New York and Detroit, and the cases were prosecuted in U.S. District Court for the Southern District of New York, Brooklyn. Judge Raymond Dearie presiding. More cases are pending.

The ringleader, Mary Ann Hanna of New Castle, Pa., was identified by a teller after repeated trips to a First Seneca Bank office in western Pennsylvania, according to Mr. Hanlon.

Aware of federal regulations that require banks to file reports on currency transactions exceeding $10,000, the money launderers were using currency in small denominations to buy cashiers' checks for just under $10,000. These escaped the transaction-reporting rule but not the watchful eyes of alert tellers.

Mr. Hanlon of the IRS said the banks involved included the $1 billion-asset First Seneca Bank, Oil City, Pa.; $938 million-asset First National Bank of Pennsylvania, Erie; $304 million-asset First National Bank of Western Pennsylvania, New Castle; and $160 million-asset Bank of Weirton, W.Va.

Tellers' Alert Initiates Probe

"A number of banks in this area were involved, and we were one of them," said Sam B. Biasucci, vice president and head cashier for First National Bank of Western Pennsylvania. "It was strictly a case of individuals buying cashiers' checks. The tellers became aware of it, and that was really the start of the whole investigation.

> The money launderers were using currency in small denominations to buy cashiers' checks for just under $10,000. These escaped the transaction-reporting rule but not the watchful eyes of tellers.

"We were pleased with the tellers, because once the investigation started, [the ring] unraveled. All [investigators] had to do is check where the cashier's checks were cashed when they came back to the bank," Mr. Biasucci said.

Mr. Hanlon said he tracked down Ms. Hanna using the First Seneca Bank teller's description and followed her one day when she purchased $36,000 in cashiers' checks.

"She [Ms. Hanna] traveled from New Castle to Pittsburgh [about 60 miles] and stopped at virtually every bank on the way down," said Mr. Hanlon. "We know that she did it on other days, but that was the only day that we truly followed her."

Lebanese Heroin Sold in Detroit

The cash was generated from sales of heroin from Lebanon imported via Kennedy Airport in New York. The drugs were sold on the streets of Detroit for cash and cocaine. The cocaine, in turn, was sold in New Castle, according to Cheryl Pollak, an assistant U.S. attorney who prosecuted the case. Meanwhile, the cashier's checks were transported to Lebanon to pay for the heroin.

A separate investigation by drug enforcement agents, who caught one of the ring's couriers in New York in 1987, also helped break up the ring.

Mr. Hanlon said he suspects the traffickers also laundered funds in Detroit. "There was obviously money laundered in a lot of places we don't know about," he said.

Ms. Hanna, 32, pleaded guilty to one count of drug smuggling and one count of money laundering. Her codefendant, Joseph Mouawad, a Lebanese national, received the same sentence as Ms. Hanna. Also convicted were two of her nephews – Elias Farah, who received 15 years and 8 months for narcotics distribution; and Joseph Farah, who received 3 months for buying cashiers' checks for the group.

Ms. Hanna's brother, Michael Latouf of New Castle, received 24 months for money laundering; and Michael Nicolas, also of New Castle, received 17 years and 6 months for narcotics distribution. ■

Internal Revenue Service

District
Director

Department of the Treasury

915 Second Ave., Seattle, Wash. 98174

Person to Contact:
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Date:
AUG 09 1989

Cliff Cook
Compliance Officer
Puget Sound Bank
P.O. Box 11500, MS 3500
Tacoma, WA 98411-5500

Dear Cliff,

My office recently had the distinct pleasure of presenting a plaque to Laurie Thies in recognition and appreciation for her outstanding professional commitment to the detection and reporting of suspected money laundering. Laurie's personal efforts and Puget Sound Bank's proactive compliance program are exemplary.

Two recent investigations serve to illustrate the value of Laurie's and Puget Sound Bank's contributions. In one case, four $9,000 Cashier's Checks were purchased with currency at different branches over three days. Alert tellers reported the suspicious transactions and Laurie alerted my office. The ensuing investigation documented currency expenditures in excess of $500,000 by the two subjects. Both targets have been indicted and arrested on conspiracy, money laundering and firearms offenses. One of the subjects was also a fugitive on narcotics and attempted murder charges. A condominium in Las Vegas and a 1981 Mercedes 380SE have been seized for forfeiture to the Government. The other investigation was also initiated as a result of an alert teller and your exceptional practice of reporting suspicious transactions. A teller attending a training session with employees from other banks learned that one of her customers was conducting suspicious currency transactions at several banks. Laurie promptly reported this information. The ensuing investigation documented that seventeen Cashier's Checks totalling $130,000 had been purchased with currency and were used to buy a piece of lake view property. This property

has also been seized for forfeiture and a kilo of cocaine was recovered in a related search.

I commend Laurie's and Puget Sound Bank's actions. You are both welcome and valued allies in our enforcement of financial crimes.

Sincerely,

Stephen Hironaka, Chief
Criminal Investigation
Division

Chemical Aids Feds in Drug-Ring Sting

By MICHAEL WEINSTEIN

NEW YORK — Chemical Bank aided a major U.S. sting operation aimed at a large Colombian drug ring, federal officials said Friday.

Citizens and Southern National Bank, Atlanta, had earlier been identified as helping undercover federal agents infiltrate the Medellin drug cartel.

The cartel allegedly laundered illegal drug profits through banks in Panama and in Los Angeles, New York, and Atlanta.

Chemical's role in the sting came to light in documents filed last week in U.S. court in Atlanta to gain the extradition of Eduardo Martinez Romero, a Columbian who reputedly masterminded the alleged money laundering. Mr. Martinez was indicted in March as part of the sting operation. He was extradited to the United States last week and was scheduled to be arraigned today in Atlanta.

"In general, the cash would be picked up [in New York and Los Angeles], placed in banks, wire-transferred to Atlanta, and then further transferred to banks in Panama that had been iden-

See CHEMICAL: Page 22 ▸

Chemical Aids Feds in Drug-Ring Sting

▸ Continued from Page 1

tified by the traffickers," Robert L. Barr Jr., U.S. Attorney in Atlanta, said in March when indictments were unsealed.

The government used accounts at Chemical Bank and Citizens and Southern.

"We set this account up at the behest of the Drug Enforcement Agency," said Charles G. Salmans, a Chemical spokesman. He declined to say why Chemical was chosen for this role.

"Everything they did was in the mode of the public good," said Kevin Gallagher, associate special agent in charge of the DEA's New York office.

"We were one of the banks that cooperated with the government," said J. Scott Seredon, a spokesman for Citizens and Southern. "Our bank was used to launder money with the knowledge of government investigators."

In March, the U.S. Attorney's office in Atlanta commended Citizens and Southern for its "spirit of corporate citizenship." Mr. Barr, citing a judicial gag order, declined to discuss Citizens and Southern's participation in more detail.

The Atlanta investigation was part of government's "Polar Cap" operation, a broad investigation into drug-related money laundering. ■

'Naive' lawyer given term in cocaine case

By Randolph Goode
News Leader staff writer

A Richmond lawyer described as "naive" was sentenced in U.S. District Court here today to 10 months in prison on a conviction for assisting a cocaine dealer in hiding profits.

The lawyer, Glenn E. Blazek, 33, of the 8000 block Clovertree Court, pleaded guilty in late June to one count of structuring $139,000 through his escrow accounts to avoid federal income reporting requirements.

Blazek, who was in practice by himself, has surrendered his license to practice law.

He was sentenced under new federal sentencing guidelines that do not allow for probation.

Blazek also will serve three years of probation after his release from prison. U.S. District Judge Richard L. Williams did not impose any fine other than a standard $50 special assessment that goes to a crime victims' fund.

In sentencing Blazek, Williams made it clear he was sending a message to lawyers.

"I hold lawyers to high standards," the judge said. Williams added that he will sentence to prison any lawyer convicted of breaking the law.

And, noting the extensive publicity in recent years about lawyers who are convicted of laundering drug profits, Williams wondered whether the message is getting through to members of the bar.

"If lawyers don't talk about these things at bar meetings, they are dumber than they ought to be," Williams said.

Blazek was charged with assisting convicted drug dealer Jesse James Lindsey Jr. in hiding his cocaine profits from the Internal Revenue Service. Assisting was a real estate agent, Mable J. Smith, 56, of Hanover County. Ms. Smith has pleaded guilty to two counts in connection with the money laundering.

Blazek's lawyer, Murray J. Janus, referred to his client many times as a "naive" real estate lawyer who didn't understand the complicated financial transactions in which he found himself involved.

"He had never met his client (Lindsey)," Janus noted. "A real estate agent asked him to handle a transaction, and he was told that it would be confidential and in cash.

"It didn't ring any bells with Blazek that what he was doing was illegal and that he was handling drug money," said the defense lawyer.

Janus also said Blazek only was paid small fees for handling the transactions — $450 in one case and $375 in another.

"It was an act of naivete. He was used by a real estate agent who, in turn, was used by a druggie," Janus added. "It is not a question of a lawyer gone wrong, but one that didn't know better."

But Assistant U.S. Attorney David T. McGuire said that Blazek was "naive on the likelihood of getting caught and not of doing something wrong."

Authorities say that after receiving the money in cash last summer, Blazek deposited it in his two escrow accounts. Each deposit was made in amounts less than $10,000 to avoid federal money reporting requirements. The money was used in the purchases of real estate for Lindsey, but with the names of other individuals.

Lindsey and other members of his cocaine ring, which operated out of an open-air market in Caroline County, have pleaded guilty to various charges.

McGuire admitted that Blazek cooperated fully with the federal investigation and that his assistance aided in the guilty pleas of the others.

Because of that cooperation, McGuire requested that Williams depart from the normal guideline sentencing range, which in Blazek's case would have been a sentence of 15 to 21 months.

Williams concurred. Otherwise, the judge said he would have sentenced Blazek to 18 months in prison.

U.S. turns force on rural dealers

By Frank Green
Times-Dispatch staff writer

A rural crossroads dubbed "The Corner" in the small Caroline County community of Dawn was disclosed yesterday as the unlikely base of operations for an alleged cocaine trafficking ring targeted by a 49-count federal indictment.

The indictment, handed down by a grand jury here Thursday and unsealed yesterday, charges the ring imported cocaine from New York, laundered money, committed perjury, threatened witnesses, employed a false business front and used juveniles for drug sales.

Ten of 17 people indicted were arrested yesterday while others, including the alleged ring leader, Jesse James Lindsey Jr., of the 500 block of Diane Lane in Richmond, were already in custody.

U.S. Attorney Henry E. Hudson used the opportunity to promise that even more federal resources will be aimed at the growing problem of drug trafficking in rural areas of the state.

The indictment was the result of a joint task-force operation of the federal government, state and local police departments that was said to be "the most comprehensive investigation ever conducted in Central Virginia of a drug organization."

"This is [part of] a series of efforts that my office and the FBI here in Richmond are making to try and devote a portion of our resources to the rural areas of Virginia," Hudson said.

Hudson

Moore

According to authorities, the ring ran "an open-air drug market" at the intersection of state Routes 694 and 651 in the community a few miles east of Kings Dominion. The intersection is host to a dwelling, some dumpsters and "other structures."

Undercover investigators made 41 purchases of cocaine at or near the corner during the yearlong investigation. "Most of the purchases were between one gram and 3.5 grams," Hudson said.

"It's not so much that each transaction involves a lot of cocaine. It's the number of dealers that were there selling. The irritation to the community and the total quantity over a period of time . . . makes this a significant case.

"A lot of our drug dealers from

Continued on page 13, col. 1

Caroline case serves notice: U.S. targeting rural dealers

Continued from first page

major areas like Richmond, Norfolk and Northern Virginia are going to begin to migrate down to these [rural] areas.

"Our attempt to devote some of our resources to Caroline County, Spottsylvania and Fredericksburg is designed to prevent just that kind of flow of drugs from the municipal areas into the rural parts of Virginia," Hudson said.

"Once the markets in Northern Virginia and Richmond become the target of intense enforcement, which they are right now, they move to areas that are perhaps less capable of resisting ... that's the kind of effect we're beginning to see."

Caroline County Sheriff O.J. Moore agreed. "It's very difficult for rural departments" to conduct such investigations.

Authorities said the "Lindsey organization" imported one kilogram of cocaine from New York to Caroline County every four to six weeks.

They said Lindsey flew or drove to New York to buy the cocaine and Lloyd Matthew Strauss Jr., of Brooklyn, N.Y., would deliver the cocaine to Virginia hidden in the spare tire of his car.

Lindsey is also accused of laundering $226,000 in currency during a six-month period from last July to December by purchasing cashier's checks at different banks in amounts less than $10,000 so the banks would not file a Currency Transaction Report (CTR) with the Internal Revenue Service — a requirement for transactions involving $10,000 or more in currency.

> *"This is [part of] a series of efforts that my office and the FBI here in Richmond are making to try and devote a portion of our resources to the rural areas of Virginia."*
>
> — Henry E. Hudson

Hudson alleged that Lindsey bought assets using a third party to hold the title in order to conceal his ownership.

The indictment also alleges that Mable J. Smith, a realtor, helped Lindsey purchase two pieces of Richmond real estate, his home and 619 Willornet Ave., for $171,000 in currency in such a way as to avoid the filing of a transaction report and to hide Lindsey's role in the transactions.

Lindsey, 28, was charged under the so-called federal drug kingpin statute. If convicted of all charges against him, he could be sentenced to three life prison terms plus 404 years and fined more than $24.3 million.

"I think the folks in Caroline County were concerned. They made constant reports to the sheriff's office. The sheriff's office and the Virginia State police initiated the investigation. We came in to assist," Hudson said.

"The citizens have not only been very patient, but also very cooperative with this investigation," Hudson said.

AMERICAN BANKERS ASSOCIATION
1120 Connecticut Avenue, N.W.
Washington, D.C. 20036

MEMORANDUM

Preamble

America's bankers have been working hard to combat the illegal laundering of the profits from illegal drug transactions. In recent weeks, there have been a number of examples where individual bankers have worked with law enforcement officials to uncover money laundering schemes. In the past year, U.S. bankers have filed over six million currency transaction reports.

The American Bankers Association has taken a leading role in working with regulators, the Treasury Department, and the Congress in developing workable responses to the money laundering problem. As part of this effort, the ABA has developed the following statement of principles which it will be sending to its member banks, as well as to other trade associations representing members of the financial services industry. `This statement is designed to urge all financial institutions to work aggressively to combat money laundering. The ABA believes that it is critical that all members of the U.S. financial system work together with law enforcement officials, regulators, the Administration, and the Congress to prevent the U.S. financial system from being used to launder the profits of illegal drug trafficking.

AMERICAN BANKERS ASSOCIATION
1120 Connecticut Avenue N.W.
Washington, D.C.
20036

MEMORANDUM

The American Bankers Association
Statement of Principles for Combating Money Laundering by U.S. Financial Institutions

- U.S. financial institutions should continue to be at the forefront of efforts to combat the laundering of profits from illegal drug trafficking.

- U.S. financial institutions should comply fully with all laws and regulations relating to money laundering. Employees of these financial institutions should be trained in the rules applicable to reporting of transactions and to identifying possible money laundering schemes. The management of all financial institutions should indicate strong support for employee efforts to combat money laundering.

- The employees of financial institutions should report suspicious transactions or other activities to authorities when there is sufficient reason to believe that illegal activities may be taking place, consistent with basic principles of customer privacy.

- Financial institutions and their employees should work actively with law enforcement authorities when those authorities request their assistance in investigations of money laundering.

- Financial institutions should work with government institutions to develop new methods to effectively combat money laundering.

- U.S. financial institutions should work through their trade associations to encourage international cooperation and agreement on cross-border efforts to combat money laundering.

Senator KERRY. Thank you very much, Mr. Melnikoff.

Let me turn to Mr. Sargent, as I promised, since we want to get him out of here to get his flight. And then we'll come back and ask you folks a few more questions.

Let me just say, Mr. Sargent, first of all, I appreciate you being here; and, second, I don't think there's anybody here that's not sympathetic to your comments about burden and costs. And, obviously, there is a burden.

The regulation is not pleasant and I think it can be even worse when those who are regulating aren't solicitous of views, impacts, opinions, and so forth. That is precisely why I filed the bill setting up this money laundering advisory committee, which I hope you and others, the independents and others, will be supportive of, to guarantee that there is some kind of institutional safeguard there as the process goes on.

I don't know whether you have an opinion on that or not or have had a chance to see it.

Mr. SARGENT. I don't have an opinion that I would express at this time.

Senator KERRY. I'm not sure that means you have an opinion and you don't want to express it, or you're going to wait to get your opinion.

Mr. SARGENT. I would like to make a statement regarding that. I certainly don't want it to come across that community banks are not supportive of this effort. Obviously, from the history that we have seen in the past few years, we have seen that geographically there are obviously areas that have a heavier traffic than other areas.

I speak not only for banks in California but also for banks across the United States and Middle America where there are many examples where they have filed CTRs and they know their customers. They're complying with the law. In many of those situations, they haven't seen a stranger in years. They come into their bank. They continue to comply with this.

This continues to be really a burden when you consider that this is only one regulation that we're asked to comply with.

As we're talking about new concerns, new tactics, we recognize that, with that will come new regulation. We're concerned that we make sure that we address the areas where the problems are. And not burden on a blanket basis across the nation.

Senator KERRY. I understand. I don't think anybody here has suggested any legislative recommendation in the course of the day that really asserts some new burden on the bank. I think most of the discussion about newness is focused on wire transfers and the electronic process, but most of the testimony has asserted that the banks, with the exception of legitimate businesses or, quote, "legitimate businesses that have been created," are not now the principal subject of this problem.

But it seems to me, wouldn't you agree, that a CTR requirement is part of what has created that situation, because prior to that, we were reading about indictments and other things occurring in situations where banks were impacted?

Mr. SARGENT. There is definitely a place for the CTR and we believe that the information, if it is provided accurately, can be of significance if somebody is looking at it.

Senator KERRY. Agreed. I am disturbed by your comment about the anecdotal evidence about people not following up on it. Part of that is a resource issue, obviously, and I think everybody here today has documented there's a resource problem.

Now, we had testimony before the Subcommittee of the Foreign Relations Committee from Treasury and others who say that they are now caught up and able to track CTR reports.

If you have any specific instance of that not happening in the last months, we'd like to know about it. And I'm sure Treasury would, too.

We'll try to see if we can't make something happen.

Mr. SARGENT. I would like to comment on Mr. Melnikoff's comments regarding the information coming to us about what the current trends are and systems that are working. We never received any of that information in California. It would be interesting because as soon as we receive information, it usually comes through the State Superintendent of Banks, rarely through the Comptroller's Office or the FDIC or the IRS.

This would be helpful to us in identifying exactly what is going on.

Senator KERRY. I'm going to forward those comments and that suggestion to Bill Bennett, and as the Chairman said, we may want to get him in here to talk about some of these matters also.

Let me ask you quickly before my time runs out here, the Treasury proposal had all CTRs submitted either on tape or floppy disk.

How do you feel about that?

Mr. SARGENT. I think we've got a serious problem in that area. You're talking about 14,000 banks across the United States. Most of those banks are what we referred to as community, independent banks of a size probably 50 or below 100 million dollars. Many of those banks do not have the in-house computer capacity to respond to this type of requirement readily. Some of them are limited severely. When the FDIC has requested that the call reports on a quarterly basis are submitted electronically, some of these banks, quite honestly, don't have the capacity to do that.

And I think what you've got is where you've got the most suspicious type activity, let's say, I would say generally those banks probably are sophisticated enough or of a size where they have that capacity.

But, when you talk about Middle America out here, I think it would create a severe burden to ask each of these banks, who many of them don't even have a computer in-house, to create a system to track these things which aren't being looked at to begin with on a computer.

Senator KERRY. Does your bank use personal computers?

Mr. SARGENT. We have PCs in-house. They are not networked. We use a data processor. City National Bank does about a hundred banks in the southern part of the State of California. We do not have an in-house computer. We rely upon that data being delivered to them either on a batch basis and, once in a while, on a modem basis.

We're trying to update our system. But, here again, you're talking about expense.

Senator KERRY. A PC could accomplish what Secretary Martoche is talking about, couldn't it, just on a floppy disk?

Mr. SARGENT. I think it is possible that if you were to set up a software program and a modem system, most of the banks have some type of a Fed wire system that they can tie in with if the agencies can work together in that area.

Senator KERRY. You suggested some method by which there would be a certification process or some kind of accountability system that could be imposed on our enforcement agencies to make sure they're doing something with the information they're given.

Do you have any thoughts? Could you be more precise about that?

Mr. SARGENT. I think especially after listening to the testimony today, I see there is a tremendous burden being placed on it. I asked Mechanics Bank why the increase in CTRs. Their response was, they said:

"The regulators have come by and they have said that we have defined the exempt businesses too narrowly."

So, on one side, you have the IRS sending letters out saying, You're filing too many of these things. Could you let up a little bit? And you have the regulators, the FDIC and the OCC, coming in on their compliance examination indicating that exempt businesses are defined too narrowly and, consequently, creating more CTRs.

So, the IRS cannot put us out of business, but the regulators can. So we do follow their advice, and we are creating more CTRs because of the regulators.

Senator KERRY. I promised we would get you out of here. I'll turn to my colleague, Senator Bond.

Senator BOND. I think you've covered most of the questions for Mr. Sargent. I would just ask, number one, if we would all agree that it would be helpful if the federal agencies involved would talk to each other. And I hope we can encourage that and not have to force that. That certainly is a first step.

Are there other things that you see could be done to make the filings easier? Are there any other specifics that you would have to make the job easier for small banks?

Mr. SARGENT. I guess a large part of this is that we don't probably feel like we're into the system. If, as was brought out, there are things that are happening, it could be communicated to us perhaps better. So maybe some of these things might be happening here, but when day after day, we ask our tellers, our officers to file these data, we never hear another thing about it. We read in the paper about things happening, but we don't know what's happening.

If we were brought into the picture as far as communication is concerned, it could be that we would have a totally different attitude towards performing these tasks.

Senator BOND. Mr. Sargent, we've heard that concern raised by larger institutions as well. I would certainly agree that providing adequate communication to the private sector entities involved as well as to state enforcement agencies and regulatory agencies, as we've heard earlier today, is an important step.

But I am concerned and I wonder if you share that concern that as more and more drug operations, money laundering operations, are identified in the major money center banks, and we have some significant instances where major banks in California have put the finger on drug money laundering operations, do you see a danger that more and more of these are going to be driven to smaller banks as well as to other entities?

Mr. SARGENT. I think that there have been attempts to use smaller banks, but when you have someone come into a smaller bank who isn't known, all at once, everybody is aware of that because here you are talking about institutions that know their customers and they've been knowing their customers for the last 50 or 100 years. This isn't anything new to them.

And when somebody comes in with a request for a type of transaction, all at once, the red flags go up. They send for the officers—how do you want us to handle this thing? And the guy, it's kind of like a robbery case. It becomes a nonproductive exercise and they usually walk out.

Senator BOND. I wish that were the case. Unfortunately, in other parts of the country, we've heard of examples where smaller institutions, let's just say without being more specific, have welcomed those transactions and have become what is now called in the trade the laundromat of choice.

We would like to find a way to make sure that, number one, you don't hit the panic button and drive them off. But, when one of those unusual transactions goes off, the teller promptly and quietly notifies somebody and carries on the transaction.

Mr. SARGENT. Like the Treasury Department when they called and they came out three days later. Well, that was an isolated situation, I recognize.

Senator BOND. I know that you have to run. I will direct the rest of my questions to Mr. Melnikoff and Mr. Gagerman if you have no further questions for Mr. Sargent.

Senator KERRY. I do not. And I appreciate enormously your coming.

Mr. SARGENT. I would like to stress one thing, Mr. Chairman, that Mr. Gagerman pointed out. As I listened to the testimony, there was reference many times to Check Cashers; in California, we do not have regulated Check Cashers. And most of the businesses in our area cash checks—the grocery store, the drug store, the liquor store.

At what point do you draw the line and say this is a Check Cashers and this is a legitimate business man as far as setting up check cashing situations?

I also concur with his definition of the difference between Check Cashers and transaction, monetary transaction institutions, where you have money going the other way.

A Check Casher, people come in with a piece of paper and they hand it to the business and they get money back. The money is going in the opposite direction.

So, any response as far as Check Cashers are concerned, I have some concerns that we don't over-react in a situation where the money is going in the opposite direction. It's not money coming into the system, it's money going out of the system.

Senator BOND. Mr. Gagerman, do you have any members of your Association who would function as a currency exchange? Would that be under a separate organization?

Mr. GAGERMAN. Well, I spent many years working in South America and Casa de Cambio means literally a place to cash checks. In Spanish, the term Casa de Cambio means a check cashing agency. Many of our operations throughout the country, by the way, operated in Latino neighborhoods and used the generic term, Casa de Cambio.

But I don't know if there's anything further I can address.

Senator BOND. Are they where they would operate in an area where there might be two different currency, did they have occasion to have many currency exchanges?

Mr. GAGERMAN. I think what you're asking is do we change different forms of currency from one to another.

Senator BOND. Yes.

Mr. GAGERMAN. I know on the West Coast there are a couple of small licensed transmitters of these funds who also cash checks. But they are licensed and, again, regulated under the licensing act by California.

Other than that, we really can't get engaged in that kind of operation because we always operate as agents of licensed money transmitters. We are not money transmitters ourselves.

For example, we will use Western Union to transmit money or American Express.

Senator BOND. All right.

Mr. Melnikoff, do you have any comments on Mr. Sargent's view about the regulatory burden on banks? We just had an extensive discussion there and we've been listening to it.

Mr. MELNIKOFF. I think there is no need for additional regulations at this time. I think the industry has proved to everyone's satisfaction that the regs that are in place now are definitely being adhered to because we can tell by the influx of CTRs that are being filed and some of the good cases that the government has made against the launderers. The area of wire transfer, it would be my opinion that if the dialogue is developed between the industry, the regulators and enforcement, that there would be no need for legislation in that area because it would fall into place through mutual agreement and understanding of the information that is needed and if the Fed wire CHIPS and SWIFT are tapped into, and there are programs designed to pick off suspicious transactions, that would accommodate what we are trying to accomplish, and that is the identification of those people.

I think the regulations are fine. I think they need to be adhered to and we can live with them.

Senator BOND. You have referred to and we have noted the great differential in the CTRs filed by banks and other financial institutions, the 6 million filings versus the 20,000 filings on Form 8300 by other businesses.

Number one, do you have any suggestions of how we might improve compliance by those non-financial institutions?

And, number two, is it possible that, as I believe was suggested perhaps by Senator Kerry or some others, that when the dollars

come into a non-financial institution, they still have to get into the banking system, into the financial system.

If you have a legitimate business or an active business that, all of a sudden, starts depositing large sums of cash, it's a car dealer or maybe precious metals or something like that, is that, in effect, a check on the failure of those businesses to file the Form 8300? Should that be a check point?

Mr. MELNIKOFF. It should, obviously. Or, actually, car dealers, aircraft/boat dealers, et cetera, don't have the luxury of being exempt from filing. So, on that basis, reports are filed.

When you delve into different areas, precious metals, Operation Polarcap, et cetera, I think there it's difficult to pass the buck, if you will. But I think there there's probably going to be a joint effort between IRS.

Senator BOND. But you could identify those few businesses on which we should focus, like precious metals?

Mr. MELNIKOFF. I think what it goes back to, Senator Bond, really, in all honesty, is who are you doing business with. Because once that customer comes in there and opens a business account and, all of a sudden, you see this gigantic influx of dollars, it behooves the prudent banker to go out and visit with that customer and determine what other services can I provide for you, since you're making all this money.

Senator BOND. If it doesn't pass the smell test, then it doesn't work.

Thank you, gentlemen.

Senator KERRY. Thank you, Senator Bond.

I don't have too many questions, but coming in to a check cashing outlet, the reality is, and I'm not picking on you at all, but it hasn't been as innocent as I think you've laid out to us here.

Mr. GAGERMAN. We're used to being picked on, Senator.

Senator KERRY. Well, I don't want to fall into the norm. [Laughter.]

It seems to me that looking at the Chicago and Boston experience, we had some unfortunate high levels of abuse which seemed to indicate that regulation or something is necessary.

I gather, I mean there was one indictment that came down recently that alleged that 2.3 million bucks of cocaine proceeds were being laundered through a check cashing agency.

Correct?

Mr. GAGERMAN. I'm aware of that case. I think what we're looking at there——

Senator KERRY. The way they launder it is they give them the cash. The guy issues a lot of money orders and transfers the cash.

Mr. GAGERMAN. He issues money orders. And I'll go back to what I said before.

Senator KERRY. There are plenty of ways for laundering to take place. I sort of had an image after Mr. Sargent left here that, you know, this was impossible because money only goes out.

Mr. GAGERMAN. It's a combination of both. And I think in that particular instance, if the allegations are true, what we are looking at is a man, an owner of a business, by the way—not a customer—but an owner of a business particularly trying to evade the law.

Senator KERRY. It's not one instance. There were 67 raids in 13 States by Federal authorities on check cashing outlets.

Mr. GAGERMAN. All run by one man, by the way.

Senator KERRY. That's the one we got to. I mean, obviously, the potential for that abuse is very real and that begs the question:

Should there not be some form of regulation and accountability which precludes that from happening?

Mr. GAGERMAN. I think our response was the regulation is there and, in this case in particular, it's a question of enforcement. The man particularly on purpose broke an existing law.

Senator KERRY. And you're suggesting that that law is adequate. That the reporting requirements are adequate, that you couldn't have——

Mr. GAGERMAN. For our industry, I would say absolutely, primarily stemming from the fact that 99.9 percent of the business that we do do, and that's in the cashing of checks and sale of the money orders, is particularly designed to help the individual with personal banking needs.

That's 99 percent of the business that takes place in our industry when we get involved in large cash transactions in our industry.

Senator KERRY. Some States regulate; correct?

Mr. GAGERMAN. Some States regulate the check cashing industry separately. All check cashing businesses fall under the same purviews that any other business does, including the Bank Secrecy Act.

Senator KERRY. Does that include background checks of individuals opening up a check cashing outlet?

Mr. GAGERMAN. Where so mandated, yes. We are not regulated, no.

Senator KERRY. There's no uniform requirement as to that?

Mr. GAGERMAN. No. This is usually determined on the State level, again, determining what additional services a check casher will provide.

Senator KERRY. What are the additional services generally provided?

Mr. GAGERMAN. For example, if a check casher wants to go in and sell money orders, in most of the States, they must become agents of existing money order companies. The money order companies themselves engage in very lengthy investigations of the backgrounds of the individuals to ensure that the money order company will not suffer a defaultation.

When the money order company has an agent, it would be the same as you giving someone an unlimited number of your own signed blank checks.

So the actual money order companies take steps to, number one, ensure the character and the net worth of the individuals going into the business.

Senator KERRY. Mr. Melnikoff, a couple of quick questions, then we'll wrap up here.

Did the proposed Federal rulemaking on wire transfers satisfy the requirement of know your customer?

Mr. MELNIKOFF. To the best of my knowledge, yes. I think that will assist us. As Mr. Lee discussed earlier, it has always been our

experience that you're going to have the ability from the account number to work backwards to find the legitimate account holder.

Of course, if it were compulsory to put in the data on the transfer, obviously, life would be easier.

Senator KERRY. Would it be burdensome on banking institutions to require that all wire transfers had the originators as well as the beneficiaries, the account number and the business purposes?

Mr. MELNIKOFF. If it were compulsory, it wouldn't be a burden because everyone would have to do it. There would be a period of time for a transition.

Senator KERRY. Now, in your written testimony you submitted, you argued for the importance of international cooperation. Obviously, I've been harping on that for a while.

Would you conclude that that means that a rulemaking that we apply in our banks with respect to wire transfers really ought to apply to foreign banks making transfers into our system? And absent some sort of negotiated agreement with them, there's no way to require that, is there?

Mr. MELNIKOFF. Unless——

Senator KERRY. Could you deny them access?

Mr. MELNIKOFF. If it were a law, then they would be excluded. So I guess the foreign country would be between a rock and a hard place and would indeed have to either comply or use another formation to funnel funds through who would require it. So there may be some merit to that.

Senator KERRY. I'm going to let it go at that. I think we basically pretty much covered the bases here. What I'd like to do is leave the record open in the event that there are any questions my colleagues or any of us would like to follow up on.

Again, I appreciate your patience. It's been a long morning and you had to wait a long time. It's been very helpful to us in the initial exploration of some of the details of these areas.

Thank you.

[Whereupon, at 1:15 p.m., the committee was adjourned.]

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